

## **METROPOLITAN AREA PLANNING COMMISSION**

### **MINUTES**

**March 30, 2000**

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held Thursday, March 30, 2000, at 1:30 p.m., in the Planning Department Conference Room, 10<sup>th</sup> Floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Frank Garofalo, Chair; James Barfield (late arrival); Bud Hentzen; Bill Johnson; Richard Lopez; Susan Osborne-Howes (late arrival); George Platt; Ray Warren; and Harold Warner, Jr. Chris Carraher; Ron Marnell; John W. McKay, Jr.; Jerry Michaelis and Deanna Wheeler were not present. Staff members present were: Dale Miller, Assistant Secretary; Donna Goltry, Principal Planner; Scott Knebel, Senior Planner; Lisa Verts, Senior Planner; Barry Carroll, Associate Planner, and Karen Wolf, Recording Secretary.

#### **1a. Approval of MAPC minutes for January 27, 2000.**

**GAROFALO** "Are there any corrections or changes to these?"

**OSBORNE-HOWES** "I think there must be a page left out. I am sure I talked more than it shows. That is the only comment I have."

**GAROFALO** "Is that on the minutes for the 27<sup>th</sup>?"

**OSBORNE-HOWES** "I think so. I'm sorry I am late. I think that is the meeting I noted that on."

**WARREN** "I couldn't hear her comment."

**GAROFALO** "She said there may be some of her comments that may be missing."

**OSBORNE-HOWES** "It was toward the end of Item No. 12, Other Matters. But that is all and I don't want to slow things up for that."

**MOTION:** That the Metropolitan Area Planning Commission approve the minutes of January 27, 2000 as submitted.

**WARREN** moved, **LOPEZ** seconded the motion, and it carried unanimously (9-0).

#### **1b. Approval of revised minutes for special MAPC meetings of February 3, 2000 and February 10, 2000.**

**LOPEZ** "I have some corrections on the February 3 minutes. I will give them to the secretary."

**GAROFALO** "Is there anything else on the February 3 minutes?"

**WARREN** "I've got one on Page 16. I will give it to the Secretary, too. It isn't that much, just a couple of words."

**GAROFALO** "Okay. Can I have a motion, then?"

**MOTION:** That the Metropolitan Area Planning Department approve the minutes for the February 3, 2000 special meeting..

**JOHNSON** moved, **WARNER** seconded the motion, and it carried unanimously (9-0).

**GAROFALO** "And now the minutes for February 10."

**HENTZEN** "I have just two minor changes on the February minutes. On Page 1, in the large paragraph next to the last paragraph. I was making some comments and it reads 'it is an overflow of the media saying to government that when two City Commissioners or two County Commissioners or two of any body talk about something, it is absolute proof of conspiracy, that they are conspiring against some fellow citizen'. Then I said '*that is a bold-faced lie*'. It says live.

Then on Page 3, down near the bottom where Commissioner McKay is speaking, 'We got this from Mr. McGinn' should say '*Mrs. McGinn*.' That is Carolyn McGinn, the County Commissioner. And that is all."

**GAROFALO** "Okay. Is there anything else?"

**PLATT** "I have a few words to change on Page 8. I will give them to the secretary."

**MOTION:** That the Metropolitan Area Planning Commission approve the minutes for February 10, 2000 as amended.

**JOHNSON** moved, **WARNER**, and it carried unanimously (9-0).

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2. **Review final language on Comprehensive Plan Amendments, and authorize Chairman to sign resolutions approving the 2030 Transportation Plan and the Comprehensive Plan.**

**GAROFALO** "Does anybody have any questions or comments on the final changes? To me, they look like they are changes that we had approved."

**LOPEZ** "I have a question. On No. 61 under MAPC policies, it references Page 14, then we have bold, italicized and italicized. Are both of those changes? The one that says Page 14 replace. We have that bold italicized and then we have italicized."

**GAROFALO** "Oh, I see what you are saying. The objectives are in bold."

**WARREN** "We are striking the bold italicized?"

**LOPEZ** "No, we are striking the italicized."

**WARNER** "One is what staff recommends and the other is what we approved."

**LOPEZ** "The bold italicized is what we approved?"

**WARNER** "No. We are going to change the bold."

**GAROFALO** "To be consistent with the way the rest of it shows."

**PLATT** "The one we approved? That doesn't make sense."

**GAROFALO** "That was taken directly off of Commissioner McGinn's suggested wording."

**PLATT** "Dave Barber is here if you have questions."

**LOPEZ** "So the bold italicized is what we are approving."

**GAROFALO** "Right."

**LOPEZ** "Then, on Page 20, the italicized there. We are approving that also?"

**GAROFALO** "Right."

**LOPEZ** "Okay."

**GAROFALO** "Now on the map that goes along with that, are we going to delete that corridor line or whatever we had?"

**DAVE BARBER** "Yes. Jamsheed plans on deleting that from the map in the Transportation element."

**GAROFALO** "Okay. Does everybody understand that? Is there anything on Page 32 changed? It just dawned on me that on Strategy 11a. 2 on Page 32, that we say 'enforce existing housing codes and statutes'. Should the word state be in there?"

**BARBER** "I think it is a generic term that would apply to state and local regulations. That is the wording that you approved a few weeks ago."

**GAROFALO** "Right. Okay, does anybody else have anything?"

**LOPEZ** "Jamsheed just passed out these corrections."

**GAROFALO** "These are things that we have already tentatively approved. Is that right, Jamsheed?"

**JAMSHEED MEHTA**, Planning staff "That is right. We talked about this soon after the public hearings, and we are changing one whole paragraph in its entirety, primarily to deal with the Northwest Bypass project, and then the southeast transportation study. So this is new language to replace the previous paragraph. That is what I called Page 2, regional highways. On Page 3, we are just striking out three words 'for turning movements' and just leaving it at 'additional lanes'.

The next one is a footnote at the bottom of a table where we have KDOT projects that we consider to be KDOT responsibility over the 30 year period. We just want to identify that these are based on our assumptions of what would be the funding sources at that time. KDOT approval has not necessarily been granted yet.

And then the final one, Map 7; some of these are corrections, like we need to show Kellogg as a freeway all the way to wherever it intersects with the Northwest Bypass. It was approved, but we inadvertently left it out in our graphic. Then we already talked about the Southeast Bypass and the Corridor. That is out, to be replaced by a study.

Then, 21<sup>st</sup> Street on the east side between Rock and Webb does not need to be widened any further. And west 13<sup>th</sup> will remain as a four-lane facility as it is, to be replaced by intersection-type projects but not arterial improvements."

**GAROFALO** Okay, does anyone have any questions on those changes? Okay, then why don't we have a motion to approve the final amendments of the Comprehensive Plan. I guess we can take both of those together."

**MEHTA** "This action is also for you to sign off on a Resolution. If you recall, two weeks ago we didn't have a Resolution prepared for you then, so we are basically back-dating it."

**GAROFALO** "Right. I was thinking that we would give approval to these amendments first and then approval of the Resolution."

**OSBORNE-HOWES** "If you don't support the Plan and you did not vote to support it, I can understand voting for the amendments, but what should you do about the Resolution then, vote against the Resolution?"

**OSBORNE-HOWES** "Okay. So if you don't support the plan, you vote against the Resolution."

**PLATT** "The way it is written here, the Resolution has already been approved."

**OSBORNE-HOWES** "Yeah. We did approve it."

**GAROFALO** "Okay, then I guess we did."

**MEHTA** "This action is only to formalize the previous action in terms of the Resolution so that we can forward it further to the federal agencies. Your official vote was what it was on March 16."

**OSBORNE-HOWES** "So if enough of us vote against the Resolution, we cannot pass it on? I am just curious."

**GAROFALO** "The Resolution just substantiates what we have already done, right?"

**MEHTA** "Yes. We are bringing you a Resolution two weeks after the fact."

**WARREN** "This is just an acknowledgement as I understand it, of what we did."

**GAROFALO** "That is what I thought and I didn't think we would need a vote on the Resolution."

**MEHTA** "Right."

**GAROFALO** "Okay, I will just sign the Resolution then. Do we have a motion, then, to approve the amendments as presented?"

**MOTION:** That the Metropolitan Area Planning Department approve the amendments to the Comprehensive Plan as presented, and authorize the Chairman to sign resolutions approving the 2030 Transportation Plan and the Comprehensive Plan.

**JOHNSON** moved, **LOPEZ** seconded the motion, and it carried unanimously (9-0).

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**FRANK GAROFALO**, Chair, read the following zoning procedural statement which is applicable to all City of Wichita zoning cases:

Before we begin the agenda, I would like to take this opportunity to welcome members of the public to this meeting of the Metropolitan Area Planning Commission. Copies of the agenda for today's meeting, the public hearing procedure, and copies of staff reports on zoning items are available at the table nearest to the audience.

The Commission's bylaws limit the applicant on a zoning or subdivision application and his or her representative(s) to a total of ten minutes of speaking time at the start of the hearing on that item, plus up to two minutes at the conclusion of that hearing. All other persons wishing to speak on agenda items are limited to five minutes per person. However, if they feel that it is needed and justified, the Commission may extend these times by a majority vote.

All speakers are requested to state your name and address for the record when beginning to speak. When you are done speaking, please write your name and address, and the case number, on the sheet provided at the table nearest to the audience. This will enable staff to notify you if there are any additional proceedings concerning that item. Please note that all written and visual materials you present to the Commission will be retained by the Secretary as part of the official record. If you are not speaking, but you wish to be notified about future proceedings on a particular case, please sign in on that same sheet.

The Planning Commission is interested in hearing the views of all persons who wish to express themselves on our agenda items. However, we ask all speakers to please be as concise as possible, and to please avoid long repetitions of facts or opinions which have already been stated.

For your information, the Wichita City Council has adopted a policy for all City zoning items, which is also available at the table with the other materials. They rely on the written record of the Planning Commission hearings and do not conduct their own additional public hearings on these items.

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**GAROFALO** "We are going to pull items 3/5 and 3/9 for discussion. Are there any others to be pulled? Is there anyone here to speak on any of the other Subdivision items?"

**OSBORNE-HOWES** "Someone contacted me about 11 o'clock last night about item 3/3, the Highland Springs Commercial Addition. I just felt I needed to disclose that."

3. Subdivision Committee items 3/1, 3/2, 3/3, 3/4, 3/6, 3/7 and 3/8 were approved subject to the Subdivision Committee recommendations.

**PLATT** moved, **JOHNSON** seconded the motion, and it carried unanimously (9-0).

**3/1. S/D 99-78** - Final Plat of HARRISON INDUSTRIAL ADDITION, located west side of Broadway, North of 45<sup>th</sup> Street North..

- A. Since sanitary sewer is unavailable to serve this property, the applicant shall contact the Environmental Health Division of the Health Department to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage facilities. A memorandum shall be obtained specifying approval. The Applicant proposes a storage use for the site, requiring no additional on-site sewage disposal.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- C. County Engineering needs to comment on the status of the applicant's drainage plan. A revised drainage plan is required. A drainage easement is needed in Lot 5.
- D. The plat proposes five access openings along Broadway, including one joint opening between Lots 4 and 5. County Engineering has approved the access controls. The joint access opening shall be established by separate instrument.
- E. County Engineering requests the dedication of additional right-of-way. 60-ft of half-street right-of-way is required from the centerline of Broadway. .
- F. The recording data and location of the pipeline shall be included on the face of the plat.
- G. The designation of Broadway as U.S. Highway 81 shall be removed.
- H. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- I. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- J. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- K. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- L. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- M. The applicant is advised that various State and Federal requirements [specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147] for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- N. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five

(5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.

- O. Perimeter closure computations shall be submitted with the final plat tracing.
- P. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- Q. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- R. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in Release 13 version of AutoCAD. This will be used by the City and County GIS Department.

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**3/2. S/D 00-12 - Final Plat of BENCOR ADDITION, located on the southeast corner of 13<sup>th</sup> and Woodlawn.**

- A. Existing municipal services are available to serve the site. City Engineering needs to comment on the need for any guarantees. No guarantees are required.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- C. City Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan is approved.
- D. The alley adjoining Lot 2 shall be denoted on the final plat tracing.
- E. The plat proposes one access opening along each perimeter street. The Applicant shall guarantee the closure of any driveway openings being located in areas of complete access control or that exceed the number of allowed openings.
- F. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- G. Traffic Engineering should comment on the need for additional right-of-way. In lieu of the standard 75-ft half street right-of-way, the Applicant has dedicated an additional 10 foot of right-of-way in conjunction with a "corner clip". The Applicant shall dedicate a 15-ft contingent right-of-way.  
  
The final plat has included this requested dedication of right-of-way.
- H. The private drive shall be established by separate instrument.
- I. Traffic Engineering needs to indicate the need for improvements to perimeter streets. No improvements are required.
- J. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- K. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- L. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- M. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- N. The applicant is advised that various State and Federal requirements [specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147] for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- O. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management

practices be used to reduce pollutant loadings in storm water runoffs.

- P. Perimeter closure computations shall be submitted with the final plat tracing.
- Q. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- R. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- S. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

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**3/3. S/D 00-15** - Final Plat of HIGHLAND SPRINGS COMMERCIAL ADDITION, located on the southwest corner of 135<sup>th</sup> Street West and Central.

- A. The Applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- C. City Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan is approved. A drainage guarantee is required. A drainage easement is required.
- D. The definite location of the KGE temporary easement needs to be provided on the plat.
- E. Traffic Engineering needs to comment on the access controls. The plat proposes three access openings along the south side of Central, including two joint openings. On the north side of Central two access openings are proposed, including one joint opening. Along 135<sup>th</sup> St. West, the plat proposes one access opening north of Central and two openings south of Central. For Lot 2, Block B, 150 feet of complete access control is required along 135<sup>th</sup> St. Distances should be shown for all segments of access control. In accordance with the Subdivision regulations, any access openings located within 250 feet of the intersection of Central and 135<sup>th</sup> St. West are limited to right-turns only, and shall be referenced on the face of the plat; or a guarantee provided for the future construction of a raised medial. The final plat shall reference the access controls in the plat's text.
- F. In accordance with the CUP, the following improvements are required: a) a guarantee for the construction of Central to three lanes between 135<sup>th</sup> St. West and where the realigned street meets the present location of Central and b) construction of a three lane roadway between the south line of Lot 2, Block A, and the north line of Lot 2, Block B along 135<sup>th</sup> St. West.
- G. A temporary road easement for Central Avenue will need to be established by separate instrument until the improvements to the new alignment of Central are completed.
- H. The joint access openings need to be established by separate instrument.
- I. A cross-lot circulation agreement shall be provided between the non-residential lots.
- J. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- K. A CUP Certificate shall be submitted to MAPD prior to City Council consideration, identifying the approved CUP (referenced as DP-233) and its special conditions for development on this property.
- L. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- M. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- N. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- O. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.

- P. The applicant is advised that various State and Federal requirements [specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147] for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Q. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- R. Perimeter closure computations shall be submitted with the final plat tracing.
- S. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- T. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. KGE requests a temporary easement to cover their line until Central is realigned. Any relocation or reconstruction of utilities made necessary by this plat shall be the responsibility of the Applicant.
- U. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

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**3/4. SUB 2000-11 - One-step Final Plat of PLAZA CENTRAL OFFICE PARK 2<sup>ND</sup> ADDITION, located on the south side of Central, east of Greenwich.**

- A. The site is located within the Four Mile Creek sanitary sewer system and will be served by the County. On the final plat tracing, appropriate wording shall be added to the Mayor's signature block indicating the City's agreement to allow a County sewer district to be formed within the City. County Engineering requires a sanitary sewer layout. Applicant is reminded that sewer impact fees are significantly higher for development of this plat.
- B. City Engineering needs to comment on the need for guarantees or easements. A guarantee is required for the extension of City water.
- C. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- D. City/County Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan is approved. County Engineering recommends a potential drainage easement on the west line of Lot 1. A utility easement is requested along the south line of Lots 2 and 3.
- E. Traffic Engineering needs to comment on the access controls. In accordance with the Protective Overlay, the plat proposes one access opening along Central and two access openings along Jackson. The access controls are approved.
- F. The Applicant shall guarantee the closure of any driveway openings being located in areas of complete access control or that exceed the number of allowed openings.
- G. A cross-lot access and circulation agreement shall be provided.
- H. Traffic Engineering shall comment on the need for street improvements. A petition was provided with the Plaza Central Office Park Addition to the east which guarantees the paving of Jackson to commercial street standards. Distances shall be shown for all segments of access control. No improvements are required.
- I. A Notice of Protective Overlay indicating the Protective overlay has been filed with the MAPD shall be submitted.
- J. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- K. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- L. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- M. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity

to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.

- N. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- O. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- P. Perimeter closure computations shall be submitted with the final plat tracing.
- Q. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- R. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- S. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.
- T. City Fire Department requires the renaming of Jackson to Jackson Heights.

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- 3/6. DED 2000-02** - Dedication of a Utility Easement from Julie Gile and Raymond A. Bachicha for property generally located on the south side of Tenth Street, east of Sheridan.

Legal Description: The west 4 feet of the east 124 feet of Lot 72, Valley Acres Addition, Sedgwick County, Kansas, except the north 10 feet thereof.

As a requirement of Lot Split No. SUB 2000-05, city Engineering required this additional 4-foot easement to bring the total easement to the 20-foot standard.

Planing staff recommended the granting of this dedication be accepted.

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- 3/7. DED 2000-03** - Dedication of a Street Right-of-Way from Julie Gile and Raymond A. Bachicha for property generally located on the south side of Tenth Street, east of Sheridan.

Legal Description: The north 10 feet of Lot 72, Valley Acres Addition, Sedgwick County, Kansas, except the west 125 feet thereof.

Purpose of dedication: As a requirement of Lot Split No. SUB 2000-05, this dedication is being made for the purpose of additional Right-of-way along 10<sup>th</sup> Street.

Planning staff recommended the granting of this dedication be accepted.

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- 3/8. DED 2000-04** - Contingent Street Right-of-Way Dedication from Julie Gile and Raymond A. Bachicha for proeperty generally located on the south side of Tenth Street, east of Sheridan.

Legal Description: The Lot 72, Valley Acres Additin, Sedgwick County, Kansas, except the west 125 feet thereof.

Purpose of dedication: As a requirement of a Lot Split No. SUB 2000-05, this Contingent Dedication is being dedicated for the future extension of Mt. Carmel.

Planning staff recommended the granting of this dedication be accepted.

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Item taken out of order:

- 3/5. Case No. SUB 2000-12** - One-Step Final Plat of SEWAGE TREATMENT PLANT NO. 3 (NW) ADDITION, located on the north side of 37<sup>th</sup> Street North and the east side of 135<sup>th</sup> Street West.



- A. City Engineering needs to comment on the need for any guarantees or easements. No guarantees are required.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- C. City/County Engineering needs to comment on the status of the applicant's drainage plan. County Engineering requests the extension of the Floodway Reserve going north along the small tributary, and northeast along the large tributary.
- D. County Engineering needs to comment on the access controls. The plat proposes three access openings along 135<sup>th</sup> St. West and one opening along 37<sup>th</sup> St. North. The access controls are approved.
- E. County Engineering needs to comment on the need for improvements to 37<sup>th</sup> St. North and 135<sup>th</sup> St. West. The applicant shall guarantee the construction to the two-lane rural pavement standard of 37<sup>th</sup> St. North from 119<sup>th</sup> St. West to 135<sup>th</sup> St. West, and of 135<sup>th</sup> St. West from 37<sup>th</sup> St. North to the northern entrance of the site.
- F. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- G. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- H. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- I. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- J. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- K. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- L. Perimeter closure computations shall be submitted with the final plat tracing.
- M. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- N. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property. Southwestern Bell requests additional easements.
- O. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

**NEIL STRAHL**, Planning staff, "This plat was approved last week by the Subdivision Committee. The site was previously approved for a conditional use permit for a sewage treatment plant, a public park and a fishery. Although this site is located within the City, the perimeter streets are currently township roads. County Engineering required that the applicant, who was the City of Wichita guarantee the paving of 37<sup>th</sup> North from 119<sup>th</sup> Street West to 135<sup>th</sup> Street West and pave 135<sup>th</sup> Street from the 37<sup>th</sup> Street North intersection to the northern entrance of the site.

This was approved by the Subdivision Committee as a condition of plat approval. The City objects to the paving requirement due to the minimal traffic generation, although a traffic generation study hasn't been completed for the site. The Water and Sewer Department estimates that approximately one truck per week would be needed for this unmanned facility. The estimated construction time for the site is approximately 3 years. Again, the Water and Sewer Department desire that the paving requirements reflect that fact. That concludes the staff comments."

**JOHNSON** "I guess the only thing I would like to say is that I know that I asked that question when we saw it before. We were assured then that all access was going to be paved. Now it seems like they want to change it. If it was an applicant other than the City, would we back up on something that was agreed? I guess I would like to see the minutes of that meeting."

**LOPEZ** "The minutes on which meeting?"

**JOHNSON** "I guess it would have to be the one where we approved the Conditional Use permit."

**GAROFALO** "When was that, Dale, do you remember?"

**MILLER** "It was two meetings ago. We do have a legal opinion on that. The comments that were made were basically saying that the City is willing to do what they need to do. It is just the timing, I think, is what the issue is. If we can guarantee that all up front when it is going to be. If it is going to be two or three years before this thing goes that they would like to put off the guarantee until it is actually operating and have a better sense of what is going on in the area. David Warren was here and Gary Wiley is here to speak on that."

**GAROFALO** "Okay, let's hear from Gary Wiley."

**GARY WILEY** "I am here on behalf of the applicant. Mr. Warren was here earlier and had another meeting that he had to attend. He asked me to discuss this particular issue. As was commented, the paving of 37<sup>th</sup> North and 135<sup>th</sup> West, that is a mile and a half of paving that the County has required would have a cost of somewhere between \$500,000 and \$600,000. We understand that during the construction phase of this that there will be considerable traffic on this site, but what the applicant would like to do is to perhaps offer to maintain the roadways during the construction time. It could be part of the construction process to maintain the road. We have talked about moving the main entrance through the construction phase clear to the southeast corner, so it is just half a mile from 119<sup>th</sup> Street West.

Mr. Warren has also been in touch with the County and others regarding maybe some shared costs for some of this paving. As was brought up, once the plant is functional, they have about one truck per week that will go to this site. That is an awful lot of money to spend for one truck per week. We have two bridges in the area that cross the Cowskin that both overtop every time it rains practically, so we are not going to make a great deal of improvement by just putting some blacktop down. I would be happy to answer any questions. We would like to see this particular item deferred until a later date."

**GAROFALO** "Are there any questions of Gary?"

**PLATT** "Whose idea are these public restrooms you have on the plat?"

**WILEY** "That comes much later, George. Much later in the process. That will not be developed; the Wetlands and everything will not be developed with the plant itself."

**WARREN** "I don't have any questions of Mr. Wiley, but I would like to hear from the County Engineer."

**GAROFALO** "Right. I was going to ask Jim to come on up."

**BARFIELD** "I have a question for Mr. Wiley. Did you say you would like to have this postponed for a while? What is your reason for that?"

**WILEY** "Not the plat. The requirements for any pavement. We would like to be able to work something out between us and the County on this issue and not have it a requirement by the Planning Commission to pave these roads today."

**BARFIELD** "Are you aware of any conversation between Mr. Warren and the County?"

**WILEY** "I am. I know there has been contact. Mr. Weber can probably relate to that."

**HENTZEN** "Is this contiguous with any City property or is it an island annexation?"

**WILEY** "It is an island annexation. That is one of the other issues. I know Mr. Weber didn't feel like it should be the township's responsibility and I am sure he will talk to this about maintaining those roads and I have made a suggestion that maybe the City ought to annex the roads and get them out of the township's jurisdiction and be responsible for the maintenance of them."

**HENTZEN** "What are you asking for now, to delay this?"

**WILEY** "To eliminate the requirement of the paving at this time."

**HENTZEN** "Not to eliminate it, just to delay it."

**WILEY** "Yes, until something more efficient can be worked out."

**HENTZEN** "And do you think they are talking about County standards or City standards?"

**WILEY** "They are talking County right now. That is a 6 inch asphalt mat, but we are still talking about \$500,000 to \$600,000."

**HENTZEN** "Yeah, and what I was thinking was that they are trying to put something in there to attract people."

**WILEY** "That comes much later, Bud."

**HENTZEN** "I understand."

**WILEY** "And at that time it will be different."

**HENTZEN** "That is what I am saying. Well, if you do that, you should have decent roads going to it."

**WILEY** "I agree, and I think the City agrees to that, too."

**OSBORNE-HOWES** "The way the plan was presented in the paper, it looked as if this was going to be a very nice public facility, and now you are saying much later. What are we talking about?"

**WILEY** "Well, we are talking three years, probably, before the plant starts and then another two or three years for a completion period. So we are talking quite a few years down the line."

**OSBORNE-HOWES** "Well, when you say much later, I want to know what it means."

**WILEY** "Yeah. Probably six to ten years later."

**GAROFALO** "Are there any other questions of Gary? Okay, let's hear from the County Engineer."

**JIM WEBER** "I am Deputy Director for Sedgwick County Public Works. I will keep this short like I did last week. I am going to back this up (slides). This is a really nice plan, by the way. We have several concerns. One is that once again we have been looking at their site plan, which does show more than one public use area up there and we have a concern that this will attract people to the area. We are concerned because this wastewater treatment facility is a significant industrial complex and the construction of that is going to require a great deal of concrete and steel, a large number of people, equipment, things coming in and they talk about an extended construction time. They are talking about a couple of years' worth of construction here.

We take that and we draw parallel with the subdivision requirement that if this were a single-family residential subdivision half a mile off of paved road, that developer would be required to get this road paved to County rural standard before the very first building permit ever got pulled in here. We think that this is out in the County, some distance from the City. It is a significant development occurring out there and it is easy to say that these things are going to happen later, but I think that the purpose of the subdivision process is to get all of the guarantees in place when the plat is going in to make sure that will happen. If we don't put the requirement in here now and figure out if they are going to do part of it and petition part of it, or whatever it is going to be, if we don't get the requirement in here, then we are all left on our side of the street with trying to explain to people why that didn't happen.

So we continue to request that you leave that requirement in to get this thing paved and have it done at least during construction phase, whatever they are going to be using for construction, and whatever else they need later, but as long as they have entrances to their plant site and their public areas shown up half a mile north of 37<sup>th</sup> Street, I think we need to consider that that needs to be a paved road. We are talking about the same standard we would apply to residential subdivision. There is nothing extreme here or particularly unusual. I would be happy to try to answer any questions you might have."

**JOHNSON** "Mr. Weber, in the event that we left it in there, that still wouldn't keep you guys from meeting and determining whether there would be some alternatives that you could work out and accept, right?"

**WEBER** "That's right. I mean, if their site plan changed, for example, and they suddenly decided they didn't need access at the north end, that they were going to route everything to the south end, we are not unreasonable people. We could probably work that out."

**GAROFALO** "Okay. So you wouldn't necessarily be talking about paving everything at this point?"

**WEBER** "Well, right now we are, because there is no connection there, so this is the only entrance to this construction site, which is back in this corner. This is where all of the action is going to happen for the first three years, and then once this is developed, I can only expect that if Mr. Wiley is correct, then you develop this as a park area that they are showing and that still brings people up.

Another thing I want to bring up, and I think maybe Neil misspoke just a little bit. What they had said previously was that this was going to have a person in the plant every day, one truck a day. The one truck a week, and I am a little fuzzy on this yet, is that there are going to be bio-solids that have to come out of this facility and get trucked down to their Plant No. 2. I am not sure how many trucks that really takes to do it, but those are going to be semi tractor- trailers, which is what they use now inside their own facility to haul the stuff around, so if this stays as a sand facility, and I think it has been pointed out, we have a crossing of the Cowskin here and here (indicating) and right now, today, you might be a little 'iffy' getting out of there right now without pavement. I think it is acceptable to have the water overflow the road for a short period of time like it probably does, but this thing is not easily maintained in the way it is now, and if the construction traffic and everything is going, we will have a real mess out there."

**WARREN** "Clarify County standards for me in terms of this being a blacktop, open ditches,...."

**WEBER** "Six inches of asphalt on 6 inches of stabilized sub-grade, either flash or lime; twenty-six foot wide; two lanes and open ditches that have a minimum of 4 to 1 slopes, etc., but it would be open ditch, wouldn't have any storm sewer. They

might have to lengthen or replace some cross road culverts or something in there, but it would be the minimum standard thing for a county road."

**WARREN** "No curb gutter or storm sewer?"

**WEBER** "No."

**BARFIELD** "Are you in agreement with Mr. Wiley regarding the estimated cost?"

**WEBER** "We have told the Water Department to figure on \$350,000 to \$400,00 per mile, so that is going to be \$600,000 and we agree with what he is saying."

**GAROFALO** "But Jim, in response to Commissioner Johnson's question, what I got out of that was that if we leave the guarantee in here that you all could get together and decide what portions would have to be paved during construction and that sort of thing?"

**WEBER** "What I am trying to say is that if they changed their site plan, this is what we are working off of, this is the site plan that is here, was in the paper, everywhere. This is what we are showing everybody we are doing. Right now, it says that the only way into this plant is right here (indicating). If they want to change their site plan, and I don't know that they will, but if they do and develop this road (indicating), and make it for crossing over this little drainage system here to get up into their plant and maybe back around to this park area, maybe they could have an emergency access over here, but not to turn this into paved regular daily access, but bring everything half a mile over and front it in here and work it around from this direction, I think that may be a reasonable approach to take.

But given the site plan that everybody has, what we have to conclude is that they are either coming across 37<sup>th</sup> Street and up to get here to do everything or they are coming across 45<sup>th</sup> Street and down. It is a mile and a half either way. Of course, coming around and down doesn't get you into this public use area down here, so that wouldn't make any sense either."

**GAROFALO** "But it would appear that initially, all of the action, and I doubt that the site plan is going to change, but all of the construction and what-not will be confined to the plant area."

**WEBER** "The construction is here, but every concrete truck is going to come across 37<sup>th</sup> Street, across these two bridges (indicating) and up here, and then back in."

**GAROFALO** "All right. Any other questions?"

**OSBORNE-HOWES** "Before this plant is operational, will the roads be paved?"

**WEBER** "Our suggestion is that they need to pave the access to it before they ever start building."

**OSBORNE-HOWES** "I understand that, but I am asking when it becomes operational one way or the other, they will be paved?"

**WEBER** "I haven't heard them say that."

**OSBORNE-HOWES** "Yeah. There is no guarantee of that. So there are really two issues, sort of."

**WEBER** "I think so."

**OSBORNE-HOWES** "Okay, thank you."

**GAROFALO** "Are there any other questions? Okay, thank you. Is there anyone else who would like to speak on this issue? Gary, do you want to add anything in rebuttal?"

**WILEY** "I did think of something else I would like to say. Like I said, we are thinking of several different alternatives now. I think Bill brought it up good that maybe something could be worked out with the County at a later day. Maybe right now we look at maybe a phase petition that would have more than one phase in it. I think that might satisfy Mr. Weber in that respect, depending on where the construction entrance might be.

I know that Mr. Warren still wants to visit more with the County Commissioners in this district and perhaps even some City staff before he totally agrees, but I think maybe if we could go with the phase petition, that might work."

**WARREN** "I guess this is coming back to us now? Okay. I have about three thoughts on this. One is that I am impressed with the fact that if this were a developer putting in an industrial plant what we would demand and require of him. I am concerned with that.

Two, if it is going to happen anyway, even if they are talking about a reasonable time of somewhere between 3 and 5 years, then I would say why wouldn't we go ahead and do it so it is done prior to construction or along with construction."

**GAROFALO** "Yeah, and let them work it out."

**WARREN** "Right. It is not like it is going to be done or not going to be done, it sounds to me like it is a question of when it is going to be done. Again, if we are going to treat developers this way, I guess we all ought to play by the same rules."

**MILLER** "I think, just from seeing some notes, I think the answer to that is that that is what their thinking is that they can program this as Capital Improvement Program (C.I.P) projects as opposed to coming up with money out of a separate funding source."

**WARREN** "Can they fund it with the project? I assume that is going on a general obligation bond, isn't it?"

**MILLER** "I am not sure how that is set up, I just know that in talking when we were doing the initial stuff, when I asked about paving, I was told that that wasn't part of this budget. So what they are trying to do is use C.I.P. money, which needs to be spread over a series of years in order to take care of that. I think that is what they are after. If it has to come all at once then I think the utility has to pick it up as part of the rate payments."

**JOHNSON** "But Dale, all of the hearings that we had on this, I mean it was almost as involved as the Comprehensive Plan, and it seems like all of the things we heard, when they were wanting to get the Conditional Use for it, was that yes, the roads would be paved and all of this, and that is a statement that was made. That is the problem I have with this. Now, all of a sudden, they are ready to start and they want the plat finalized and they want to renegotiate. I thought that was already in that budget."

**MILLER** "I can understand what you are saying, and I guess what I am trying to emphasize is that I don't believe that the Water Department is trying to say 'we are not going to do what we need to do'. All they are saying is that we need to phase it in and time it with the overall project."

**WARREN** "In answer to that, I am not a fiscal agent and wouldn't claim to be, but I do know that if working this into their C.I.P. is a hardship, I have known these projects to go in on special assessment bonds with ten years and the city- at-large as a benefit district. Maybe Gary could comment on that. But they could get ten years to pay for it. They don't have to put it on a C.I.P. obligation bond."

**WILEY** (From the audience) "The only problem is it's a County road and you can't have city obligation bonds on a county road."

**WARREN** "If they accept it. Take the annexation on out to include the road."

**WILEY** "I have suggested that, Mr. Warren, to take all of the road from 119<sup>th</sup> and let the City be responsible for it."

**KNEBEL** "The City can't annex a road unless they have property adjacent."

**WARREN** "I guess what I am saying is that there is a way for them to spread that cost."

**MILLER** "There may be. I don't know anything about it."

**WARREN** "Yeah. I wouldn't use that as a very strong criteria for not doing it."

**PLATT** "I guess I am a little embarrassed by all of this. After sitting in on the public hearings, we had a great deal of people out on the west side of the City very upset about this whole process. It seemed to me that the City was doing everything they could to assure folks that this was going to be a first-class operation and how nice it was going to be. The picnic areas and the parks. And people said these are dirt roads...we are going to have dust. They said 'oh, no', they were going to take care of that. And I am embarrassed to come back now and to be asked to be a part of backing out on what I thought we were trying to tell the public was a first-class operation."

Secondly, at the Subdivision meeting last week, the first proposal by the City as the applicant was to simply say 'we don't want to have to guarantee the paving of the roads'. They didn't talk about a partial payment plan or phasing it in, which they could have brought to us, they said they didn't want to do it.

**MOTION:** That the Planning Commission recommend to the governing body that the plat be approved as submitted by the Subdivision Committee.

**PLATT** moved, **BARFIELD** seconded the motion.

**GAROFALO** "Is there any discussion?"

**WARREN** "That is subject to all of the conditions that are in the staff report?"

**PLATT** "Yeah."

**JOHNSON** "I wanted to make sure that if they submitted a different site plan or whatever, that the County and City could work together."

**PLATT** "Sure."

**OSBORNE-HOWES** "I absolutely agree with Commissioner Platt."

**GAROFALO** "Is there any other discussion?"

**VOTE ON THE MOTION:** The motion carried with 9 in favor. There was no opposition.

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Item taken out of order:

**3/9. S/D 00-21** - One-Step Final Plat of LORAC FIRST ADDITION, located on the north side of Harry, east side of St. Francis.

- A. Municipal services appear to be available to serve this site. City Engineering needs to comment on the need for guarantees or easements. A 20-ft utility easement shall be dedicated to cover the existing sanitary sewer line. A hold harmless agreement shall be provided.
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning department for recording.
- C. City Engineering needs to comment on the status of the applicant's drainage plan. The drainage plan is approved.
- E. City Engineering needs to comment on the access controls. The plat proposes three access openings along St. Francis, three access openings along Santa Fe, and two openings along Harry. In accordance with the Protective Overlay, the Applicant shall guarantee the closure of the westernmost driveway opening along Harry. Distances should be shown for all segments of access control. Two access openings along St. Francis and two openings along Santa Fe have been approved.
- E. The County Surveyor has requested additional boundary measurements.
- F. The legal description in the plat's text needs to reference the "Perrys" Addition in addition to the section, township and range.
- G. The Applicant is reminded of the screening requirements of the Unified Zoning Code and the Landscape Ordinance along the north, east and west property lines.
- H. Traffic Engineering needs to comment on the need for additional right-of-way along Harry. Engineering requests the dedication of an additional 20-ft of right-of-way. The portion of that dedication over the existing structures may be a contingent dedication. The plat's text shall state that this dedication would be contingent upon removal of the existing structures.
- I. The final plat tracing should reference a tie point to a section corner.
- J. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- K. The applicant shall install or guarantee the installation of all utilities and facilities which are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- L. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- M. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (phone 316-729-0102) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- N. The applicant is advised that various State and Federal requirements [specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147] for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- O. The owner of the subdivision should be aware of the fact that the development of any subdivision greater than five (5) acres in size may require an NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Further, on all construction sites, the City of Wichita requires that best management practices be used to reduce pollutant loadings in storm water runoffs.
- P. Perimeter closure computations shall be submitted with the final plat tracing.

- Q. Recording of the plat within thirty (30) days after approval by the City Council and/or County Commission.
- R. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- S. The applicant is reminded that a disk shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD. This will be used by the City and County GIS Department.

**STRAHL** "This plat is located on the north side of Harry, on the east side of St. Francis. It is a one-lot plat, and the northern portion of the plat was approved for a zone change to 'LI' Limited Industrial for the expansion of an existing industrial use. You approved this plat last month. The applicant has requested a reconsideration of this plat today, due to his objection to item 'H' in the staff report. That is in regards to right-of-way.

Traffic Engineering had asked for an additional 20 foot of right-of-way along Harry to comply with our subdivision regulations, which require a 50-foot half-street right-of-way for arterials. There will be a portion of that dedication over the existing structure and engineering has recommended that that be a contingent right-of-way. That would be triggered upon the removal of that structure. City Engineering does reiterate that they do need that 50-foot half-street right-of-way. Again, all of the other issues have been resolved. That is the only issue that is outstanding and being objected to by the applicant. Are there any questions for staff?"

**WARREN** "I think you made the statement that they said they needed that. I didn't get that from what I heard in Subdivision. Maybe we will want City Engineering to speak to that. They said it was Subdivision regulation that we do this. In fact I said 'is there any plan to widen Harry Street?', and they said 'no'. I said 'how would you get the rest of the land if you did?', and they said 'well, we would have to buy it'. I submitted at the time that I thought this was the taking of land that we really have no right to with no project that looks like it will be in the future. That is what I heard from City Engineering. I agree that that should be dropped. The other thing we are doing is that we are encumbering that man's buildings and it is going to show up on title policies, it is going to show up if he tries to mortgage them, and it is going to be a tremendous encumbrance on that land if we try to take that 20-foot easement, one of which we don't have any need for and don't have any plans for. I would like to see us delete item H."

**GAROFALO** "Are there any other questions? Okay, then, is the applicant here?"

**DOUG KLASSEN** "I am with Austin Miller, the agent for the applicant. The applicant is also present. I think he would like to say a few words, but if I could just say first that Harry Street from the river over to Hydraulic, virtually all of the properties are 30 feet half-street right-of-way on both the north and south sides. With the exception of some of the intersections, this would be the only property that would have that 50-foot right-of-way, so as Mr. Warren said, there are no plans by the City to do a project at this time along that corridor and if there were, they would have a great deal of property to obtain. I don't know that this one would make that much difference. Also, the applicant has indicated to me that he is planning an expansion at this time, but if he is going to have to give up that 20-foot of right-of-way, then he is probably not going to be able to do that expansion at the risk of losing his main two buildings for his operation.

The applicant, Bob Herring and I would like to ask him now if he would like to say a few words on this."

**ROBERT HERRING** "Good afternoon. I live at 643 North Brownthrus here in Wichita. In 1986, I started a business of building window-well covers, and I put an ad in Penny Power and my first week I was in business. I started out, quite frankly, making them out of wood in my garage. Since then, we have evolved. We have a good business, we have coverage across the United States to cover daylight window-wells. We also have now gone into manufacturing parts for other companies and we also do powder coating.

We presently have 18 employees and would like to hire more, but we have no place to put them. The dedication request on these two buildings would approximate 3,000 square feet of an approximate 12,000 square feet facility. In addition to that, it would simply eliminate the southeast corner building and it would probably reduce my other building in half. Of course, if I have to do this, remove the existing structure, it is going to be up to Code when I bring it back. The cost is going to be unreasonable, so I feel it is unfair to request something that you have done here that there are no immediate plans in the future that you need the area for. If, at some time down the road, you do need the area, fine. I am sure we could work something out. But I would like some remuneration. I don't think I should be held responsible for the extreme dollar amount that I believe would be involved if the decision is made and you decided that you wanted it. Does anyone have any questions?"

**WARNER** "On your building now, do they encroach on this 20 feet? Are they on this 20 feet at this time?"

**HERRING** "No, sir."

**KLASSEN** "They are across the requested 20 feet. They do cross that. One of them by the full 20 feet. (Indicating) This one, as you can see, the building lies right on the property line, so the full 20 feet would encroach that building, and then this one (indicating) approximately 10 feet."

**HERRING** "I might point out that that corner building is a two-story building, so we have more than just the approximate 2,000 square feet, we have 4,000 in effect."

**OSBORNE-HOWES** "So the building is there now and you intend to have it stay there?"

**HERRING** "We would like to have it stay there, yes. We have recently acquired some adjacent property with the intention of building another building."

**OSBORNE-HOWES** "In addition to this building?"

**HERRING** "In addition to what we have now, but if it starts cutting it back so much, I don't know how much more adjacent property we can get, so we may be limited as to what we can do in the present area."

**GAROFALO** "Are there any other questions? Okay, thank you. Is there anyone else who would like to speak on this case?"

**VICKI HUANG** "I am from City Engineering. The 50-foot standard right-of-way is in the Subdivision Regulations for arterial streets, so this is to adhere to the Subdivision Regulations. We are not asking them to remove the building at this time because the contingent street dedication will be contingent upon the removal of the building. So the building stays. That is still his ground, but I think it is important to start and adhere to the Subdivision Regulations for the arterial street."

As you can see, the existing pavement is almost to the property line. There is no room at all to that. We don't know when, but in the future there will be a need to widen Harry Street. We have to start somewhere. Along the way, if anybody comes in to plat, we will make the same requirement."

**JOHNSON** "Vicki, since that is a contingent dedication, and as long as the structure is there and they are using the structure, you can't use it for right-of-way. What can trigger that? Is the only thing that can trigger that is in the event that the owner tears the building down?"

**HUANG** "If they tear it down, then they cannot build back into the same area, or if the City really got a project going, and the building is still there, then the City will have to condemn the building and buy that at that time."

**WARREN** "I don't want to question this too much, but I would certainly like to have a legal opinion on what she just said. I think that a contingent dedication is a conditional deed, and I think the only thing to trigger that is their desire to widen that road. I don't think that there is anything in those contingent dedications that requires that they go in and start compensating somebody. I want to see that. I think what we have done is given the City a conditional deed that they can trigger. Let's ask her questions and then I have another comment or two."

**GAROFALO** "Are there any other questions of Vicki then?"

**MILLER** "I would just remind the Commission that if you go back and look at the history of planning, one of the earliest things that Planning Commissions ever did was to make sure that streets made sense and that they lined up, and that you had adequate right-of-way to take care of the proposed development. I would just echo the fact that you have to start somewhere. It may be years before a project goes on, but if you don't get it as piece-by-piece, and you look at a lot of the square-mile maps that we have, there are little pieces here and there and eventually they all line up and make sense, and you can use them, but you have to get them when you have a chance to get them, when they come through, or you won't get them."

**LOPEZ** "I have just a procedural question for the Chair. We, as the Subdivision, approved this on February 17, 6-0. Then, the whole Planning Commission approved it on February 24, 12-1. Procedurally, then, this should have gone on to the City Council, correct?"

**WARREN** "I don't think we did. I thought it was withdrawn."

**LOPEZ** (Indicating) "No. Right there is the proof. It should have gone on to the City Council. Then, if the City Council would have felt that there was reason for reconsideration, they would have sent it back to us. My question is why is it back to the Planning Commission?"

**GAROFALO** "Well, that is a good point. I didn't realize that we had already approved this."

**STRAHL** "It never did go to the City Council. The applicant requested that it be reconsidered today."

**LOPEZ** "Is that going to be the procedure now that every time an applicant doesn't like what is going to happen?"

**STRAHL** "He was appealing that item."

**LOPEZ** "Well, I am saying from now on any applicant that doesn't like the decision that is made can start bringing it back before it goes to City Council? Who approved it to come back? Somebody had to approve it to come back."

**MILLER** "The applicant has the right to appeal a condition established by the Subdivision Committee to the full Planning Commission."

**LOPEZ** "But the full Planning Commission had approved it on February 24. I remember it. It should have gone on to the City Council, shouldn't it?"



**MILLER** "Yeah, I am not sure why it is back."

**GAROFALO** "That is a good point, Richard. I think maybe we should just let it proceed on to the City Council. It was already approved. Let it proceed to the City Council. Would they hear an appeal from the applicant at City Council?"

**STRAHL** "Our regulations say that the City Council approves dedications, so that probably would be the case."

**OSBORNE-HOWES** "You all know that our agendas are pretty long anyway, and it seems to me like the time for the applicant to do this was at the time we looked at it. It seems to me that we ought to just send it on."

**WARREN** "There has been a lot of comment on this, and I agree a little bit with Dale, we do need, as new developments come up, to get the necessary rights-of-way, but I don't think that our Subdivision Regulations making these demands can go back into old developments and say 'I want to take this case'. This fellow wants to build a building, he didn't want to plat his land. We said to build this building and to get an application, we wanted him to plat. So we sucked him into the platting process. In that platting process we said 'now, you come under our subdivision regulations and now we want some of your land'. Of course, I think he will beat the hell out of us in court, and I hope he does."

**MOTION:** That the case be forwarded on to the City Council.

**LOPEZ** moved, **PLATT** seconded the motion.

**GAROFALO** "I'm not even sure that we need a motion to do anything. But I guess it would be all right. Is there any discussion?"

**HENTZEN** "I just want to tell you that we are working diligently on certain cases to try to keep businesses and people from moving away from the core area or center city, and I know of another case exactly like this where the owner of the business wants to build a building, but the city got a 30-foot dedication or setback and for that reason, he can't do what he wants to do with his own property in the downtown area. We are trying desperately to not let this property all die. I realize that the Subdivision regulations contain what the staff says that there is a 50-foot requirement on an arterial street, but it doesn't say that they get it free. If the City wants that land, then buy it. If they are going to use eminent domain or use our power of not giving the applicant what they want, then to make him give it to them free, I think it is an absolute taking of the man's property. Now, I think it is significant that there is nothing planned for down there on Harry Street, and it could be a long time before anybody on this board that is still here that would be able to think about it and talk about it at that time.

So what I am saying to you concerning the procedure that Mr. Lopez brought up, I think it is a good idea. What is this doing before us? It should be worked out. We should make it easier or whatever we can do, but I am telling you that I am not in favor of taking people's property without paying for it."

**OSBORNE-HOWES** "I think as much as possible we ought to stick to the specific issues here. Those are things that we ought to save for a time when we don't have long agenda. But my thought is that this person is not being kept from doing anything. At this point, it sounds like his agent ought to talk to the applicant. He just may not understand this exactly. Maybe the agent doesn't, I don't know. I suggest we move it on."

**GAROFALO** "Okay. Is there any other discussion?"

**VOTE ON THE MOTION:** The motion carried with 8 votes in favor (Lopez, McKay, Johnson, Osborne-Howes, Garofalo, Platt and Warner), and 1 in opposition (Warren).

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**GAROFALO** "There are two ladies here who wanted to speak on Subdivision item 3/3 and apparently misunderstood the procedure, so I think we will hear from them so that their comments can be in the minutes. "

**DOROTHY OVERFIELD** "I live at 601 North Forestview Court. I am sorry, I was waiting to hear you say Highland Springs name mentioned, and I don't believe I did, not to my knowledge.

I would just like to say that I hope you can help me to understand the decisions that are being made considering the Far West Side Policy. I know this won't make a change in your vote, but maybe it will help me to realize.

This is a copy of the Far West Side Commercial Development Policy, dated April 23, 1996, signed by Marvin Krout. I just want to refresh your memory about the Far West Side Policy. The scale of development at nine intersections of Maple, Central and 13<sup>th</sup> Street North, with 119<sup>th</sup>, 135<sup>th</sup> and 151<sup>st</sup> Streets west should be limited as follows: Our corner is Central and 135<sup>th</sup>. In fact, our wall is in the right turn lane, right across from 135<sup>th</sup> Street. The assigned commercial within one mile of there are Maple and 135<sup>th</sup>, 28 acres; 13<sup>th</sup> and 135<sup>th</sup>, 24 has been assigned; 119<sup>th</sup> and Central, there is 10.6; 151<sup>st</sup> Street and Central, possibly 24. It has been identified as a major commercial corner in the Wichita Land Use Guide, so it will probably 24 acres. That means there is over 85 acres of commercial property within our one mile.

I am not going to read all of this, but there area couple of paragraphs that I would like to read to you from the MAPC minutes of October 15, 1998. Commissioner Fulp asked this question. 'In light of the strong opposition by the local residents to this project, and what appears to be a lack of conformity, per se, of the Westside Development Policy, and the CPO's unanimous

vote to reject this, and even our own recent MAPD survey, which we saw a presentation of earlier today, where 65% of those surveyed indicated disagreement with commercial on every one mile corner. I don't quite understand staff's recommendation to approve this, other than some of the generic language that we see in recommendations on almost every project that comes before us, could you elaborate on this in light of the opposition, and in light of the things I outlined'?

Mr. Krout said 'we have an official policy that has been adopted by the City Council, and we think that it is still applicable. It is interesting information that we found out from the survey that a lot of people apparently don't think that the policy of commercial at every mile intersection is necessarily a good policy. But I think that that is a discussion that the Planning Commission needs to hold over the next several months'.

I am not sure you all have had that discussion yet. Then he also said 'out of a dozen or so policies that were adopted as the Far West Policy, there is only one that this one is technically violating. They are complying with all of the others. The one that they are asking for, two more acres on one of these two parcels that they are gaining by way of alignment. Two more acres than the four acres per corner, which is the guideline and the policy'.

And of course, Highland Springs has 10.84 acres, not counting the road that they are going to be putting through. And I know that this isn't up today, but Ziegler's property on the northeast corner of this area has 2.3 acres that has been approved, subject to platting. So I guess what we are really wanting to know is where it is going to end? And what about all of the petitions that we had signed, a lot of signatures and the protest petitions that we had, 87 per cent. You know, when we come before you, we would like to think that our neighborhood has an input in these decisions, but it seems to be between the City and the developer. That is all I have to say. I appreciate your taking the time to listen to me, even if my voice was a little shaky."

**GAROFALO** "Ma'am, the information that we are given here is that the City Council did deny the zone change and it went to court and the court reversed the denial."

**OVERFIELD** "Right. And that is another thing. Why aren't we notified? We didn't know that this had even happened."

**GAROFALO** "About the court case?"

**OVERFIELD** "Well, we knew that the developer had a lawsuit against the City, but we were never told when it went to court. Who gets to testify? The neighbors didn't have any input; the opposition. And also, on Ziegler's land, I might say, it was supposed to have been platted by February 9 of this year and we didn't hear anything, so we thought 'oh, gosh, good, they have changed their minds'. Well, unbeknown to us, the City had given them a years' extension and we would not have know that if we hadn't asked if they changed their minds. They said no, but they are not required to notify us of the extension. We just feel like we are kind of left out of things."

**MILLER** "We try to notify folks if we know they are interested. The court case thing, it is just not standard procedure to notify folks. There is a whole separate process that the courts follow when those cases are filed."

**OVERFIELD** "Well, that is what we were told that they are not required to notify us."

**MILLER** "We try to do courtesy notices as best we can and maybe we could have done better on this if we had known. You are raising issues for the first time, at least with this current staff about who needs to be notified and when that we have not had before."

**OVERFIELD** "We had also asked to be notified when they did the platting of the Ziegler's property, which was flooded in the Halloween flood, and I know that you all don't take flooding into consideration, but being we hadn't been notified we thought that nothing was done, and yet it was a letter that we asked them to send us a copy of later, and it was signed by Chris Cherches and Mayor Bob Knight."

**MILLER** "So far they hadn't submitted a plat, and until they submit one, we wouldn't notify you."

**OVERFIELD** "But why does it say that if it is not platted within a year that it is considered denied and void, and yet they turn around and say in another letter that they have an extension?"

**MILLER** "Because there is a procedure that allows them to request an extension and they can get that done. It is standard process. But your request was to be notified when a plat was turned in and a plat hasn't been turned in."

**OVERFIELD** "Well, I appreciate your time. Thank you. And please, if possible, try not to give us any more commercial property out there. Or keep it to where it is Neighborhood Office so there isn't the noise and lights all night in our back yards, which it literally will be."

**GAROFALO** "Well, apparently that attempt was made by the City Council, but the court said otherwise."

**OVERFIELD** "Thank you very much for letting me speak."

**GAROFALO** "Is there anyone else? Ma'am, did you want to speak? Okay."

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4. **VAC2000-00001** - Request to vacate a portion of a 25-foot platted building setback, located south of Central at the NE corner of Cedar Downs and Cedar Downs Court.

Legal: That part of Lots 3 and 4, The Havens, an Addition to Wichita, Sedgwick County, Kansas described as follows: Commencing at the most southerly corner common to said Lots 3 and 4, thence N09deg51'26"W along the lot line common to said Lots 3 and 4, 16.11 feet to a point 15.00 feet normally distant northwest of the southeast line of said Lots 3 and 4, and for a point of beginning; thence southwesterly parallel with the southeast line of said Lots 3 and 4, being a curve to the left, having a central angle of 16deg20'47" and a radius of 151.71 feet, an arc distance of 43.28 feet, (having a chord length of 43.14 feet bearing S51deg40'29"W), to the P.T. of said curve; thence S43deg30'06"W parallel with the southeast line of said Lot 3, 7.55 feet to a point 25.00 feet normally distant northeast of the southwest line of said Lot 3; thence N46deg29'54"W parallel with the southwest line of said Lot 3, 10.00 feet to a point on the 25 foot building setback line as platted in said Lots 3 and 4; thence N43deg30'06"E along said 25 foot building setback line, 7.55 feet to the P.C. of a curve to the right; thence northeasterly along said curve, having a central angle of 17deg39'04" and a radius of 161.71 feet, an arc distance of 49.82 feet, (having a chord length of 49.62 feet bearing N52deg19'38"E), to a point on the lot line common to said Lots 3 and 4; thence continuing northeasterly along said curve to the right, having a central angle of 09deg09'19" and a radius of 161.71 feet, an arc distance of 25.84 feet, (having a chord length of 25.81 feet bearing N65deg43'50"E), to a point 25.00 feet normally distant northeast of the lot line common to said Lots 3 and 4; thence S09deg51'26"E parallel with the lot line common to said Lots 3 and 4, 10.16 feet to a point 15.00 feet normally distant northwest of the southeast line of said Lot 4; thence southwesterly parallel with the southeast line of said Lot 4, being a curve to the left, having a central angle of 09deg48'18" and a radius of 151.71 feet, an arc distance of 25.96 feet, (having a chord length of 25.93 feet bearing S64deg45'02"W), to the point of beginning.

Reason for Request: To reduce the platted 25 foot building setback to a 15 foot side street setback along Cedar Downs Court, in accordance with a lot split requirement.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Daily Reporter of notice of this publication as required by law, by publication in the Daily Reporter of notice of this vacation proceeding one time March 9, 1000, which was at least 20 days prior to this public hearing.
  2. That no private rights will be injured or endangered by the vacation of the above-described building setback, and the public will suffer no loss or inconvenience thereby.
  3. In justice to the petitioners (s), the prayer of the petition ought to be granted.
- B. Therefore, the vacation of a portion of a building setback described in the petition should be approved.

The Subdivision Committee recommends approval.

**LISA VAN DE WATER**, Planning staff "This vacation case was heard before the Subdivision Committee last week and approved. This was essentially a condition of a lot split and it was to shift the side and front yard setback. Other than that, staff has no further comments."

**GAROFALO** "Is there anyone here to be heard on this item? No one. I will take it back to the Commission then."

**MOTION:** That the Planning commission recommend to the governing body that the request be approved.

**JOHNSON** moved, **WARNER** seconded the motion, and it carried unanimously (8-0).

**ZONING:**

- 5a. **Case No. SCZ-0793** - Box Development, LLC, c/o Walter Morris (owner); Austin-Miller, P.A. c/o Tim Austin (agent) request zone change from "SF-20" Single-Family Residential to "B" Multi-Family; and
- 5b. **Case No. DP-245** - Box Development, LLC, c/o Walter Morris (owner); Austin-Miller, P.A. c/o Tim Austin (agent) request the creation of Catamaran Cove Community Unit Plan on property described as:

A tract of land in the Northeast Quarter of Section 33, Township 26 South, R-1-W of the 6<sup>th</sup> Principal Meridian, Sedgwick County, Kansas, described as follows:

Commencing at the Southeast corner of said Northeast Quarter; thence S 89°32'08" W a distance of 60.00 feet to a Point of Beginning; thence S 89°32'08" W a distance of 1268.35 feet; thence N 00°02'29" W for a distance of 2592.20 feet; thence N 89°29'08" E for a distance of 451.51 to the Northwest corner of Lot 8, Block 1, proposed Hoskinson 2<sup>nd</sup>

Addition, Sedgwick County, Kansas; thence S 00°07'35" W for a distance of 206.00 feet; thence N 89°29'08" E for a distance of 294.00 feet; thence S 37°14'41" E for a distance of 42.27 feet; thence S 03°39'56" E for a distance of 275.60 feet; thence S 00°04'46" E for a distance of 220.00 feet; thence S 08°16'47" E for a distance of 68.73 feet; thence S 18°44'14" E for a distance of 713.11 feet; thence S 43°08'57" E for a distance of 68.62 feet; thence S 24°27'58" E for a distance of 139.62" thence S 08°13'33" E for a distance of 141.85 feet; thence N 89°31'53" E for a distance of 120.00 feet to the southeast corner of Lot 1, Block 1, proposed Hoskinson 2<sup>nd</sup> Addition, Sedgwick County, Kansas; thence S 00°07'35" W for a distance of 794.05 feet to the Point of Beginning. Generally located on the southwest corner of 37<sup>th</sup> Street North and Ridge Road.

**DONNA GOLTRY**, Planning staff, pointed out land use and zoning; and showed slides of the general area. She reviewed the following staff report:

**BACKGROUND:** The applicant is requesting the creation of a 58.3 acre development, named Catamaran Cove Community Unit Plan, for apartment development near the southwest corner of 37<sup>th</sup> Street North and Ridge Road. Parcels 1 and 2, comprising 26.5, acres would be zoned "B" Multi-Family, and the Reserve area, comprising 31.8 acres, would be zoned "SF-6" Single Family but be occupied by a lake (Drainage Reserve). The owner of the C.U.P., Box Development, L.L.C, is the same owner as DP-242 Ridge Center C.U.P. Together, these developments occupy an area that extends along Ridge Road for one-half mile south of 37<sup>th</sup> Street North, and is one-fourth mile deep. Ridge Centre C.U.P. was approved for commercial development last year.

Parcel 1 of Catamaran Cove is 6.95 acres is size and is located along the southern portion of the C.U.P. It is shown with one point of access onto Ridge Road, immediately north of the location where the Big Slough North that forms the lake in the drainage reserve flows under Ridge Road. Parcel 2 is 19.55 acres and has no point of access shown on the proposed C.U.P. It is an interior parcel, bounded on the north and east by the Reserve, the south by Parcel 1 and west by property owned by a separate property owner, which also contains a lake.

Floodplain issues will be a major concern for this tract during the platting process. The boundary of the Drainage Reserve corresponds to the edge of the floodway on the Big Slough North. Approximately 75 percent of the land area in Parcels 1 and 2, shown as the parcels for apartment development, are within the 100-year flood boundary based on the 1986 FEMA Floodway map.

The applicant proposes that each parcel would be limited to 30 percent maximum building coverage and 40 percent floor area ratio. A setback is shown along Ridge that is irregular, due to proximity to the crossing of the Big Slough North. No specific setback is shown along the property lines, but there is a notation for a 5-foot wall easement. A screening wall six feet in height constructed of masonry would be required along the western property line where the adjacent property is zoned for residential use, as well as a landscape buffer.

The applicant proposes that Parcels 1 and 2 be permitted all residential uses allowed in the "B" Multi-Family District. The theoretical maximum allowable dwelling units requested by the applicant would be:

	Single Family	Duplex	Multi-Family
Parcel 1	29		45      168
Parcel 2	101		154      944

It is unlikely that the applicant could approach the theoretical limits on conventional single-family or duplex style units due to the floodplain constraints on the property.

The applicant has not requested the maximum permitted densities allowed in the "B" Multi-Family District of 75 dwelling units per acre. However, achieving even the multi-family density requested, for a yield of over 1,110 dwelling units, would be extremely difficult given the constraint of the maximum gross floor area of 40 percent for the parcels. When comparing the maximum gross floor area of the parcels with the requested densities, the size of the units are quite small. The maximum per unit square footage of floor area for Parcel 1 is 720 square feet; for Parcel 2 it is 360 square feet. Further, when an apartment building is designed, all common areas, halls, covered porches, patios and decks, carports, etc. are included in the gross floor area calculations. Therefore, the actual square footage available for the apartment space decreases by at least ten percent in a typical project. This would result in unrealistically small apartment units. Likely, the developer would chose to build fewer units that offer more living space.

The applicant has not requested a specific height limit. The height allowed by "B" zoning is 55 feet at the minimum required perimeter building setbacks, plus one additional foot in height for every additional foot of setback beyond the minimum required setbacks.

The property to the south is zoned "LI" Limited Industrial and is currently being offered as "heavy commercial" property by its owner. However, in the past there was a proposal to develop this property as single-family. If so, then the wall and landscape buffer would be needed along the southern property line of Catamaran Cove. General Provision #16 prohibits windows directly facing a single-family subdivision to the south within 150 feet of the property line.

Signage would be limited to one monument style sign at the major entrance on Ridge Road.

The applicant proposes all parcels maintain a compatible architectural character, color, texture, but has not suggested language that they be of the same predominant exterior building material.

The site is located in an area that is undergoing urban development. The tract to the east, DP-237 Ridgeport C.U.P. is the being developed with a medical offices and is the proposed site for a new hospital facility for Via Christi. Housing, offering a range of densities and types is being developed in the area surrounding Ridgeport C.U.P. There is a multi-family tract approved for "MF-29" zoning that could yield a total of 229 units, plus a small pocket of duplexes, tri-plexes and four-plexes along Ridge. The balance of the tract is being developed as single-family.

The property immediately to the south of the application area is undeveloped; the remainder of the area to the south/southwest is developed residentially with Forest Lakes Addition. The adjacent property to the west is a large residential holding, consisting of a home and a lake. Further to the west, the property remains in agricultural use with scattered residences. The property to the north has been approved for commercial development, DP-250 Starwest C.U.P.

**CASE HISTORY:** The application area is unplatted.

**ADJACENT ZONING AND LAND USE:**

NORTH:	"SF-20"; "LC"	Vacant
SOUTH:	"LI"	Vacant
EAST:	"SF-20"; "LC"	Vacant, under development (commercial, office and residential)
WEST:	"SF-20"	Residence with lake, agricultural

**PUBLIC SERVICES:** The property is located along two major arterial streets, 37<sup>th</sup> Street North and Ridge Road. Ridge was recently reconstructed to four-lane standards. 37<sup>th</sup> Street is still an unpaved county road. Traffic volumes along Ridge Road in 1997 were 7,717 ADTs (average daily traffic). This was projected to increase to 15,275 ADTs in the 2020 Transportation Plan, but this projection did not anticipate the volume of development occurring in the vicinity (Via Christi, Ridge Centre, etc). Improvements to 37<sup>th</sup> Street North and Ridge Road were included in approval of Ridge Centre C.U.P.

Because access from the site to Ridge and 37<sup>th</sup> is hampered by the floodway, the applicant has requested only one point of access onto Ridge Road. However, this would bring all potential apartment traffic onto Ridge and not provide a second point of access. As will be discussed later, a point of access onto 37<sup>th</sup> would be needed.

Water and sewer services are not currently available to the property. The applicant will need to guarantee extensions for water and sewer services.

**CONFORMANCE TO PLANS/POLICIES:**

The "Wichita Land Use Guide" of the Comprehensive Plan identifies this area for "agricultural". However, the continued northern expansion of urban development and recent widening of Ridge Road, the proximity of the K-96 freeway interchange, and the ultimate plan to extend sewer service to that freeway suggests that this area is becoming ripe for urban development.

The "Residential" objective is to encourage infill and higher density residential development maximizes public investment in facilities and services. Strategy (5) is to consider new requirements for medium and high density development which would involve development plan and architectural review to ensure compatibility with surrounding low density residential areas. The "Residential Locational Guidelines" that relate to this proposed application are:

(1. & 2. Omitted because they do not apply to this case).

3. Medium-density residential may serve as a transitional land use between low and high density residential uses, as well as serve to buffer lower-density residential from commercial uses.
4. Medium-and-high-density residential areas should be located within walking distance of neighborhood commercial centers, parks, schools and public transportation routes and be in proximity to employment concentrations, major thoroughfares and utility trunk lines.
5. Medium-and-high density residential should be directly accessible to arterial or collector streets so that their traffic does not pass through less intensive land uses.
6. Medium-to-high density residential areas should be sited where they will not overload or create congestion in existing and planned facilities and utilities.

**RECOMMENDATION:** While the proposed site partially meets the residential locational guidelines for multi-family use, the scale of the proposed development exceeds the realistic ability of the site to accommodate the proposed density of use. Conceivably, higher densities could be achieved by relying on high-rise style apartment development. In this case with the large amount of the site in the flood fringe, the flexibility of going taller gives more flexibility to locate development outside the flood fringe.

The applicant has proposed only one point of access, on Ridge Road. This would create additional congestion on Ridge Road. Already, it is extremely difficult for residents living south of the application area to cross Ridge Road at 29<sup>th</sup> Street North during peak travel hours. The preferable situation would be to have a second point of access on 37<sup>th</sup> Street North, aligned with the major opening for Starwest or for Ridge Centre and channeling traffic to the signalized corner with Ridge. Along Ridge, the opening should be aligned with 34<sup>th</sup> Street North. This would require moving the opening northward 150 feet.

The use of this property for intense residential development would be in stark contrast to the single-family area to the southwest and the large acreage to the west. Further it is anticipated that the land west of the application area, when developed, would also be low-density residential. The presence of the lake on the site to the west offers a potential buffer for high-intensity residential use; but it should be emphasized that this land is in separate ownership and used as a private residence with a private lake, and is not included in the application. As proposed by the applicant, the buffer provided by this C.U.P. is minimal, a five-foot wall easement, the minimum required landscape buffering, and no provision for setbacks beyond the minimum required by the Unified Zoning Code. Although the residential C.U.P. provides a method to incorporate imaginative design to soften the points of impact between dissimilar land uses, this application has not incorporated such techniques in the proposed design.

Based on these considerations, plus the information available prior to the public hearing, staff feels that this request is excessive in terms of the realistic amount of residential development that can be accommodated on the site, given its access limitations and site constraints, and that development should be limited to single-family and duplex uses unless and until the property to the west is developed as multi-family, and a second point of access is provided to serve the property. Further, due to the constraints of the site, the number of dwelling units permitted should be limited to 500 dwelling units. Staff recommends the request be APPROVED subject to platting of the entire property within one year and subject to the following conditions.

- A. APPROVE the zone change (SCZ-073) to "B" Multi-Family, subject to platting of the entire property within one year.
- B. APPROVE the Community Unit Plan (DP-245), subject to the following conditions:
  1. Development shall be limited to single-family and duplex uses unless and until the property to the west is developed as multi-family, and a second point of access is provided to serve the property.
  2. If the conditions contained in Condition Number 1 are met and the property is developed for multi-family use, the number of multi-family dwelling units permitted on Parcel 1 and Parcel 2, combined, shall be limited to a maximum of 500 dwelling units. In the case that a portion of Parcel 1 or Parcel 2, or both, are developed with single-family or duplex units, the amount of multi-family units permitted on the balance of the parcel(s) shall be reduced commensurately by the amount of acreage in single-family or duplex use as a proportion of total parcel size.
  3. No development shall occur until such time as municipal water and sewer services are provided to the site.
  4. A point of access on 37<sup>th</sup> Street North, shall be provided, aligned with the entrance of Starwest connecting to the major opening for Ridge Centre C.U.P. The entrance shall provide a short right-turn southbound decel lane plus a through lane for inbound traffic, and a left-turn lane plus a through/right-turn lane for outbound traffic.
  5. A Parcel Description for the "Reserve" area shall be added.
  6. Parcel Descriptions for Parcel 1 and Parcel 2 shall be revised to reflect a total density of 500 dwelling units combined.
  7. General Provision #4 shall be revised to state that signage shall be in accordance with Article IV of the Unified Zoning Code. Maximum sign height shall be no more than 12 feet above grade.
  8. General Provision #14 shall be revised to state that parking shall be in accordance with Article IV of the Unified Zoning Code.
  9. General Provision #18 shall be revised to state that if the Parcel 1 or Parcel 2 or both are developed with multi-family use, the multi-family buildings shall share uniform architectural character, color, texture, and the same predominate exterior building material. Building walls and roofs must have predominantly earth-tone colors, with vivid colors limited to incidental accent, and must employ materials similar to surrounding residential areas.
  10. A general provision shall be added to state that prior to issuing building permits, a plan for a pedestrian walk system shall be submitted and approved by the Director of Planning. This walk system shall link sidewalks along Ridge Road and 37<sup>th</sup> Street with the proposed apartment buildings within the subject property and provide for internal circulation as determined necessary by the Director of Planning.
  11. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
  12. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
  13. All property included within this C.U.P. and zone case shall be platted within one year after approval of this C.U.P. by the Governing Body, or the cases shall be considered denied and closed. The resolution establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds.
  14. Prior to publishing the resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-250) includes special conditions for development on this property.

15. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 30 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The area to the east and north is approved for commercial and office development, and some multi-family. While the tract to the immediate south of the application area is zoned "L", the remaining land to the southeast, and south are single-family residential. To the west the land is zoned "SF-20" and is not in urban use; it is large lot residences or agricultural. If it were to develop, it would most likely be as low-density residential.
2. The suitability of the subject property for the uses to which it has been restricted: The property could be developed with a small number of residential units that would be similar in character to residential development to the south in those areas outside the floodplain area.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of this C.U.P. will increase the likelihood that other properties to north and west will seek to be developed more intensively. There are no natural barriers west of the Big Slough North to separate higher intensity commercial and residential use from lower density residential use, except for the lake immediately adjacent to the subject tract.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The Land Use Guide of the Comprehensive Plan identifies this area as agricultural, however, changing factors have pointed to the need to reconsider that designation, as discussed earlier. Medium density residential development is recommended as an appropriate buffer between low-density uses and commercial or high-density use. As proposed, this development would be high density instead of medium density and would not serve as an appropriate buffer. Medium-to-high density residential is viewed as appropriate along arterial streets and situated near commercial services and employment centers. This would be descriptive of the area when it is fully developed.
5. Impact of the proposed development on community facilities: The site will have a significant impact on community facilities. Unless the two access points channel traffic to signalized intersections, with the majority being directed onto 37<sup>th</sup> Street North, ingress/egress would be difficult for residents and it would create congestion on Ridge Road.

**GOLTRY** "This is a case that we heard last time, so I will only give you a little bit of basic background and then we will call your attention to the memo that I presented on your desks today, which reflects some additional discussions that we have held between the applicant and the staff. As I have said, this is an application for multi-family; it involves a 58-acre tract which has a lake in this area (indicating). An old sandpit lake.

As shown right now, there are two parcels here although the applicant has requested that those be combined into one parcel for multi-family use. To put it in some context, this is along the Ridge Road development corridor that we seem to have quite a few cases coming along about. We will have one later in the day today.

If you could please look back to the three sheets that have been stapled to the top of last time's staff report. These three sheets reflect the discussions that we have held between the applicant and ourselves and the agreements that we have come to terms on. It also raises what remaining issues there are, which would probably be issues between related to the wall on the western property line.

The main issues were access and the appropriate number of units to be developed on the property. If you look down in the language that I have presented you, I have highlighted in bold and italics those changes that represent substantive changes from the recommendations on the staff report in the previous week, and to look down to Condition B(1) in particular. We are looking at recommending that the development be limited to a gross floor area, which is equivalent to a 40% floor area ratio or 775 dwelling units, whichever is more restrictive. The height limit would be 55 feet. The development would be limited to 50% of this floor area ratio or dwelling units, whichever is more restrictive unless and until access is provided along 37<sup>th</sup> Street North. If you recall from last time's discussion, one of the points of discussion was initially there was only going to be one way to get to the property.

(Indicating) "This is looking at Ridge Road and the one point of access is that we have requested it be aligned with 34<sup>th</sup> Street and is going to connect with the Via Christi property. It is right along in here. We are also requesting that there be another point of access along 37<sup>th</sup> Street. We didn't stipulate the exact location, but that it could either coordinate with the CUP to the east, which is Ridge Center CUP or it could coordinate with the opening to the north, which is Star West CUP.

There are some changes in transportation improvements, which are highlighted in bold on Page 2. I believe that the applicant is in agreement with these recommendations for transportation. It is really pretty standard recommendations, particularly, as I have already mentioned, we are aligning the entrances on 37<sup>th</sup> Street with one of the existing entrances or coordinating with the one to the east of it, and then participating and providing accel/decel lanes and a left-turn center lane on 37<sup>th</sup> Street North along Ridge Road. The requested improvements would be basically that they would have a driveway entrance that is 3 lanes in width with one lane coming in. The drive coming in would allow for right-turn decel lane and then two lanes going outbound from the site, and that they would also provide a left-turn center lane along Ridge Road and the applicant participating up to 25% in installation of a traffic signal along Ridge Road at the intersection with the major entrance when warranted.

I have already described change No. 5, which is Parcel descriptions for Parcel 1 and Parcel 2 be combined to form one large parcel. Initially, my understand was when they were developing this as Parcel 1 and Parcel 2. It was in reference to the fact that some of the property to the south at one time was considered to be potential single-family, but it is really zoned 'LI' Limited Industrial, so they would request that it all be considered as one parcel.

Probably if you would look down to General Provision No. 19, that one is the one that deals with the wall on the left. I believe that we are fortunate today, we do have the owner of the property to the west who was not able to be here at the last meeting. He is present and can speak on his own behalf. We were trying to clarify that no matter what kind of residential development occurs so long as there is single-family zoning in use to the west that there would be a 6-foot wall. It is my understanding that he will be requesting, perhaps, that the wall be 8 feet.

The other changes in Item 11, I have just made reference to the fact that compatibility setback and height standards shall be provided in accordance with Article No. 4 of the Unified Zoning Code, which I had intended to be something that we all knew by reference, but I thought it was probably useful to state that so we all know we are on the same page on that. It is my understanding that we are in agreement with the agent on all of those items. Are there any questions?"

**GAROFALO** "Are there any questions of Donna? Thanks, Donna. We will hear from the applicant now."

**TIM AUSTIN** "I am with Austin Miller, agent for the applicant. Donna is correct; we are in agreement after we met. The only comment I would have after that is that we would still rather have a 6-foot wall as opposed to an 8-foot wall on the west property line. With that, I will be happy to answer any questions you might have."

**GAROFALO** "Are there any questions of Mr. Austin?"

**LOPEZ** "At the last Commission meeting where we discussed that second point of access on the northwest corner that you had alluded to that you were talking to the applicant about acquiring property to have that second access, where is that?"

**AUSTIN** "Right. No further than it was the last time I was here, which is why we've agreed to a 50% density at this point until that second access is open."

**GAROFALO** "Are there any other questions? Okay, thanks, Tim. Is there anyone else to speak in support of this application? Is there anyone to speak in opposition?"

**MICHAEL POPP** "I am the landowner adjacent to the west side. I live a 7717 West 37<sup>th</sup> Street North. Let me state that I am not opposed to this. Anybody in this day and age that thinks that progress isn't going to happen is a lunatic. The one thing that Tim, Donna and I have talked about is that I am a big believer in liability. I was there way before this development was ever conceived, of course, and I also do believe that an 8-foot wall would be beneficial from the aspect that it is a little bit higher than what a 6-foot person is, and a kid would be down here (indicating) from that. That is my big thing is the liability aspect, the public safety and the liability. I don't want anybody to come over and have a chance to drown and then of course I would lose everything, or the insurance goes sky-high. That is my big thing.

I am a believer that it will help to increase property values so I am not opposed to it by any means. So, from that aspect, that is my big case."

**GAROFALO** "So your main concern is the height of the wall?"

**POPP** "Yeah, and then you know, the liability is there as Tim and I have talked before, the liability is there, no matter what. But as more and more people get there, the chance of something happening increases ten fold, because there is nobody there now. I just want to ensure that my peace of mind is a little more at ease not having to worry about other people. I am one of those kind of people that believes that I should not be responsible for somebody else's stupidity. Unfortunately, lawyers can make a case of that."

**LOPEZ** "You are talking about the wall on the west property line? And there is the area that is considered the floodway?"

**POPP** "Right, the floodway reserve."

**LOPEZ** "How is that going to be handled?"

**POPP** "There really is no way that it can be handled. Can you get that back up on the screen?"

**GOLTRY** "Yes, I can."

**POPP** "Okay, thanks. Up there to the north, there is no doubt that that is going to be a problem area, but my house is (indicating) roughly off in this area. As far as control-wise, I would have a little better visual control over it."

**LOPEZ** "The wall is going to run up to how far north."

**POPP** "From all indications on this 300-foot reserve right in this area, it will run up to probably there (indicating on screen). Isn't that correct, Tim?"



**AUSTIN** "Yes."

**POPP** "And my house is probably right off in this area."

**LOPEZ** "Well, my question is that you are concerned about liability. There would be nothing to prohibit youth from just walking around a wall."

**POPP** "Outside of the fact that I don't believe there is going to be a house right there in that corner. Yeah, they are going to take a journey no matter what, if they want to. Okay. But it is a lot more apt to, having residential right here, as a kid knowing that somebody is there keeping an eye on things as opposed to not having anything at all clear down here. From the aspect of yeah, there is a lack of control right there. Somebody suggested to me that if I was actually worried about it, if it is that bad, I can go ahead and put more up myself for that matter, on my property. It would be a pain in the butt, and I don't think because of somebody else making money on this, that I should be held liable for that. That is my case."

**GAROFALO** "Any other questions?"

**HENTZEN** "Is the wall coming straight down where you were pointing from?"

**POPE** "Yeah, right in here. It will be right along this property line, correct Tim? Yeah."

**GAROFALO** "Are there any other questions? Thank you. Is there anyone else to speak in opposition? Okay, the applicant has two minutes for rebuttal, if you wish."

**AUSTIN** "I understand Mike's concern with respect to liability, and we both agree that the liability is there one way or another. The only thing, I guess, just a couple of things to keep in mind is that he already has a lot of exposure along the south edge against some of the Forrest Lakes development. He still has that risk there. The other thing is, and if you remember the last time I was here, the discussion about the site development cost, to add another two feet to that wall is a considerable amount of money, as far as adding to the site development cost, and we are already pushing the value of the land right now with the improvements that we are guaranteeing already. It is kind of a cost issue. I could have gotten over an 8-foot wall when I was a kid. So, I don't know."

**HENTZEN** "When you put a swimming pool in a back yard here in Wichita, how high does the wall have to be? Is a wall even required?"

**MILLER** "A fence is required by the Health Department. I don't know that I know the height. I know we permit permits with fences over 6 feet tall, but I don't know what the minimum height is."

**WARREN** "It would be less than 6 feet."

**HENTZEN** "I might tell you that having lived in the County and having to fence a lagoon, it was a 4-foot fence. All I am saying is that that is a pretty high wall, and I don't think you could keep anybody out that really wanted to get in anyway."

**PLATT** "I have a question of Tim. Going back to your closing comments before your rebuttal, I just want to be sure, are you in agreement with the B-1 in the staff report, or not?"

**AUSTIN** "Yes, we are in agreement with that."

**PLATT** "I just wanted to be sure. Thanks."

**GAROFALO** "Are there any other questions?"

**OSBORNE-HOWSE** "Have we, on developments similar to this, required 8 feet walls?"

**MILLER** "I don't recall that you have required an 8-foot wall on much of anything."

**GAROFALO** "No more questions? We will bring it back to the Commission."

**MOTION:** Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: The area to the east and north is approved for commercial and office development, and some multi-family. While the tract to the immediate south of the application area is zoned "LI", the remaining land to the southeast, and south are single-family residential. To the west the land is zoned "SF-20" and is not in urban use; it is large lot residences or agricultural. If it were to develop, it would most likely be as low-density residential. The suitability of the subject property for the uses to which it has been restricted: The property could be developed with a small number of residential units that would be similar in character to residential development to the south in those areas outside the floodplain area. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of this C.U.P. will increase the likelihood that other properties to north and west will seek to be developed more intensively. There are no natural barriers west of the Big

Slough North to separate higher intensity commercial and residential use from lower density residential use, except for the lake immediately adjacent to the subject tract. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The Land Use Guide of the Comprehensive Plan identifies this area as agricultural, however, changing factors have pointed to the need to reconsider that designation, as discussed earlier. Medium density residential development is recommended as an appropriate buffer between low-density uses and commercial or high-density use. As proposed, this development would be high density instead of medium density and would not serve as an appropriate buffer. Medium-to-high density residential is viewed as appropriate along arterial streets and situated near commercial services and employment centers. This would be descriptive of the area when it is fully developed. Impact of the proposed development on community facilities: The site will have a significant impact on community facilities. Unless the two access points channel traffic to signalized intersections, with the majority being directed onto 37<sup>th</sup> Street North, ingress/egress would be difficult for residents and it would create congestion on Ridge Road.) I move that we recommend to the governing body that the request be approved, subject to the following:

- A. APPROVE the zone change (SCZ-073) to "B" Multi-Family, subject to platting of the entire property within one year.
- B. APPROVE the Community Unit Plan (DP-245), subject to the following conditions:
  - 1. Development shall be limited to a maximum gross floor area of 461,690 square feet (40 percent floor area ratio) or 775 dwelling units, whichever is more restrictive. Height shall be limited to 55 feet. Development shall be limited to 50 percent of the floor area ratio, or dwelling units, whichever is more restrictive, unless or until access is provided along 37<sup>th</sup> Street North.
  - 2. No development shall occur until such time as municipal water and sewer services are provided to the site.

Transportation:

- A. A point of access on 37<sup>th</sup> Street North, shall be provided, aligned with the entrance of DP-250 Starwest C.U.P., or connecting to the major opening for DP-242 Ridge Centre C.U.P. The applicant shall participate in providing accel and decel lanes, and a left-turn (center) lane on 37<sup>th</sup> Street North.
- B. On Ridge Road, the entrance to DP-245 Catamaran Cove shall be aligned with 34<sup>th</sup> Street North. The driveway shall include one inbound lane and two outbound lanes. A left-turn (center) lane shall be provided on Ridge Road at the intersection of the major entrance.
- C. The applicant shall participate up to 25 percent in the installation of a traffic signal on Ridge Road at the intersection with the major entrance, when warranted.
- D. A Parcel Description for the "Reserve" area shall be added.
- E. Parcel Descriptions for Parcel 1 and Parcel 2 shall be combined into one parcel and revised to reflect Condition Number 1.
- F. General Provision #4 shall be revised to state that signage shall be in accordance with Article IV of the Unified Zoning Code. Maximum sign height shall be no more than 12 feet above grade.
- G. General Provision #14 shall be revised to state that the Landscape Plan shall be prepared in conformance with the requirements of the Landscape Ordinance.
- H. General Provision #18 shall be revised to state that all multi-family buildings shall share uniform architectural character, color, texture, and the same predominate exterior building material. Building walls and roofs must have predominantly earth-tone colors, with vivid colors limited to incidental accent, and must employ materials similar to surrounding residential areas.
- I. General Provision #19 shall be revised to state a six (6) foot high masonry wall shall be constructed along the west property line of the C.U.P. within a wall easement where residential uses are adjacent to Single-Family Residential zoning, and the south property lines of the C.U.P. with a wall easement where high density residential uses are adjacent to Single-Family Residential zoning.
- J. A general provision shall be added to state that prior to issuing building permits, a plan for a pedestrian walk system shall be submitted and approved by the Director of Planning. This walk system shall link sidewalks along Ridge Road and 37<sup>th</sup> Street with the proposed apartment buildings within the subject property and provide for internal circulation as determined necessary by the Director of Planning.
- K. A general provision shall be added to state that compatibility setback and height standards shall be provided in accordance with Article IV of the Unified Zoning Code.

- L. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
- M. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
- N. All property included within this C.U.P. and zone case shall be platted within one year after approval of this C.U.P. by the Governing Body, or the cases shall be considered denied and closed. The resolution establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds.
- O. Prior to publishing the resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-245) includes special conditions for development on this property.
- P. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 30 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

**WARREN** moved, **HENTZEN** seconded the motion, and it carried unanimously (9-0).

6. **Case No. ZON2000-00001** - Francis I. Smith (Applicant/Owner) requests zone change from "LC" Limited Commercial to "B" Multi-Family District, on property described as:

A tract in the Northwest Quarter of the Northwest Quarter of Section 14, Township 27 South, Range 1 East of the 6<sup>th</sup> P.M., Sedgwick County, Kansas, described as beginning 30 feet East and 392.66 feet South of the Northwest corner of said Northwest Quarter; thence South 49.84 feet; thence East 150 feet; thence North 49.84 feet; thence West to the point of beginning, formerly described as the South 12.34 feet of Lot 29, all of Lot 31 and the N/2 of Lot 33, on Hillside Avenue, Baldock's Addition to the City of Wichita, Sedgwick County, Kansas. Generally located approximately 100 feet north of 12<sup>th</sup> and east of Hillside (1312 North Hillside).

**BARRY CARROLL**, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

**BACKGROUND:** The applicant indicates that he wishes to "down zone" property currently zoned "LC" Limited Commercial to the "B" Multiple-Family District. The site contains a small, wood framed, residential building. The property is ¼ acre in size and is platted. The applicant intends to sell the property to the two tenants who have lived in the single-family dwelling for a number of years. A residential category is needed so the applicants can apply for a mortgage loan application. The adjoining properties are zoned "B" Multi-Family or "LC" Limited Commercial. The application area is a rectangular shaped parcel and is located approximately 100 feet north of 12<sup>th</sup> and east of Hillside (1312 N. Hillside).

The property north of the application area is vacant and zoned "B" Multi-Family District and "LC" Limited Commercial, the property south is used for residential purposes and is zoned "B" Multi-Family District and "LC" Limited Commercial, east is "LC" Limited Commercial that is used residentially and the property to the west, with a commercial use, is also "LC." The "B" Multi-Family areas have a mixture of single and multiple family residential uses. Access to the site is currently from Hillside.

**CASE HISTORY:** The property was platted in 1888 as part of the Baldock Addition.

**ADJACENT ZONING AND LAND USE:**

NORTH: "B" & "LC" Limited Commercial	Vacant Lot
EAST: "LC" Limited Commercial	Residential
SOUTH: "B" & "LC" Limited Commercial	Residential
WEST: "LC" Limited Commercial	Business

**PUBLIC SERVICES:** The site has access from Hillside which is a paved four-lane arterial and 12<sup>th</sup> Street, a collector street. Traffic volumes are projected to be 14,000 (car trips) per day. Water and sewer services are available.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use Guide of the Comprehensive Plan identifies the application area as appropriate for "medium density residential." The Plan encourages commercial development to occur at the intersection of arterials. The site is located ¾ of a block away from the intersection of 13<sup>th</sup> and Hillside. The Plan also discourages the commercial "stripping out" of arterials.

**RECOMMENDATION:** Based on the information available prior to the public hearing, MAPD staff recommends the application be APPROVED.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Most of the neighborhood is zoned "B" Multi-Family and "LC" Limited Commercial. The character of the neighborhood is one of mixed residential and commercial uses located to the north and west with single-family homes to the east and south.
2. The suitability of the subject property for the uses to which it has been restricted: The site is currently zoned "LC" Limited Commercial. It is developed with a residence. This site is more appropriately zoned as a residential district given its current usage and distance away from the corner.
3. Extent to which removal of the restrictions will detrimentally affect nearby property. Adjacent properties are zoned either "B" Multi-Family or "LC" Limited Commercial. Rezoning of this property to "B" Multi-Family will not introduce any new potential uses to the area.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The request is consistent with the statement that the application area is appropriate for "medium density residential." The Plan encourages commercial development to occur at the intersection of arterials. The site is located  $\frac{3}{4}$  of a block away from the intersection of 13<sup>th</sup> and Hillside. The Plan also discourages the commercial "stripping out" of arterials.
5. Impact of the proposed development on community facilities: Since the use that exists today is intended to remain, no impact is foreseen by this request. The site is too small to allow any development that would create a significant impact on community facilities.

**CARROLL** "This is a down-zone request. Mr. Smith, the applicant is here. His renters are long-term and are wanting to purchase the property. In order to get a mortgage, they need a 'B' zoning category."

**GAROFALO** "Are there any questions of Barry?"

**JOHNSON** "This area is platted, so they won't have to replat, is that right?"

**CARROLL** "That is correct."

**GAROFALO** "Are there any other questions? Okay, thanks, Barry. We will hear from the applicant."

**FRANCIS SMITH** "I live at 61 Stratford in Wichita. I would be happy to answer any questions."

**GAROFALO** "Are there any questions of the applicant? Apparently not. Thank you. Is there anyone else to speak in support of this application? Is there anyone to speak in opposition? Okay, we will take it back to the Commission."

**MOTION:** Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: Most of the neighborhood is zoned "B" Multi-Family and "LC" Limited Commercial. The character of the neighborhood is one of mixed residential and commercial uses located to the north and west with single-family homes to the east and south. The suitability of the subject property for the uses to which it has been restricted: The site is currently zoned "LC" Limited Commercial. It is developed with a residence. This site is more appropriately zoned as a residential district given its current usage and distance away from the corner. Extent to which removal of the restrictions will detrimentally affect nearby property. Adjacent properties are zoned either "B" Multi-Family or "LC" Limited Commercial. Rezoning of this property to "B" Multi-Family will not introduce any new potential uses to the area. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The request is consistent with the statement that the application area is appropriate for "medium density residential." The Plan encourages commercial development to occur at the intersection of arterials. The site is located  $\frac{3}{4}$  of a block away from the intersection of 13<sup>th</sup> and Hillside. The Plan also discourages the commercial "stripping out" of arterials. Impact of the proposed development on community facilities: Since the use that exists today is intended to remain, no impact is foreseen by this request. The site is too small to allow any development that would create a significant impact on community facilities.) I move that we recommend to the governing body that the request be approved.

**OSBORNE-HOWES** moved, **LOPEZ** seconded the motion, and it carried unanimously (9-0).

7. **Case No. CON2000-0001** - Donald W. and Bonnie S. Curtright (Applicants/Owners) request a Conditional Use to allow for parking/storage of Commercial vehicles and a rural home occupation, on property described as:

West 400 feet of the South 545 feet of the Southwest Quarter except road on the West in Section 34, Township 25 South, Range 1 West, Sedgwick County, Kansas. Generally located on the east of Ridge Road and North of 77<sup>th</sup> Street North, Valley Center, Kansas.

**BARRY CARROLL**, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

**BACKGROUND:** The applicants are requesting a Conditional Use to permit a home occupation on an unplatted 4.2-acre tract of land. This property is zoned "RR" Rural Residential and is located north of 77<sup>th</sup> Street North and east of Ridge Road. The applicants are requesting this Conditional Use permit to allow a tractor-trailer truck to be parked on these 4.2 acres as part of a home occupation. Mr. Curtright is an independent, over-the-road, truck driver. The applicant recently purchased his truck and driving is his primary profession. The truck will be parked on the eastern edge of applicants' driveway, approximately 108 feet north of 77<sup>th</sup> Street North and 400 feet from the east property line. The applicants reported that they have spoken to the resident to the east (Norman Kelly) about their request. According to the applicants, their neighbor has no objections and is supportive of the request. The applicant will be on the road most of the time and only parked for short periods of time.

The home occupation guidelines of the Unified Zoning Code permit the parking of one commercial vehicle as part of a home occupation that does not exceed 26,000 pounds gross vehicle weight rating. The applicants, however, do not meet the following requirements of rural home occupations: "rural home occupations must be located on a minimum of 20 acres; the rural home occupation may not be conducted within 600 feet of a dwelling wherein no rural home occupation is conducted; and outdoor storage is permitted provided the size of the storage area does not exceed 10,000 square feet, is located behind the principal structure and 200 feet from all property lines, screening of the storage area by structures, solid or semi-solid fencing and/or landscaping materials from adjacent roads and properties is required with 600 feet of a property line or public right-of-way." The applicants only have 4.2 acres of land, the truck would be located 600 feet from a neighboring dwelling unit that is not conducting a home occupation, and does not provide the required screening to the east.

The Unified Zoning Code (UZC) was recently amended to allow a permitted rural home occupation that does not meet one or more of the rural home occupation requirements, as a Conditional Use, as long as the property "is no less than five acres in size and no more than four non-residents are employed in the home occupation." Due to improvements to Ridge Road, which encroached upon the applicants' property, the tract is 4.2 (not five acres) in size. The applicants do not employ any outside employees.

The applicant has submitted a site plan which shows the tractor trailer parked in front of the principal structure on-site, which also does not conform to the requirements of the UZC but may be waived as part of a Conditional Use request. There is a solid cedar hedgerow located between this property and the properties to the west, north and south. There is no screening provided to the east, which would not meet the requirements for outside storage for the UZC.

**CASE HISTORY:** None.

**ADJACENT ZONING AND LAND USE:**

NORTH: "RR" Rural Residential	Farm Field
EAST: "RR" Rural Residential	Single-Family Residence
SOUTH: "RR" Rural Residential	Single-Family Residence
WEST: "RR" Rural Residential	Single-Family Residence

**PUBLIC SERVICES:** The site has access to a private driveway, which is to be maintained by the property owners. The private road feeds onto 77<sup>th</sup> Street North; this street is approximately 192 feet east of Ridge Road, a two-lane county highway with estimated traffic volumes of 3,400 trips per day on Ridge Road. 77<sup>th</sup> Street North is a township road with no traffic data available.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use Guide of the Comprehensive Plan identifies this area as appropriate for "agricultural" use. This category has the intent of protecting agricultural resources and is meant to accommodate agricultural operations on substantial acreage. This category can allow other uses common in rural areas, which are no more offensive than normal agricultural uses.

**RECOMMENDATION:** The property will be developed in general conformance with the site plan approved by the MAPC or County Commission. Based on the information available prior to the public hearing, and a site plan showing the location of the parked tractor-trailer truck, MAPD staff recommends the application be APPROVED, subject to the following conditions:

1. The Conditional Use shall only be permitted for a home occupation involving the parking of one tractor-trailer. There will be no additional outside employees or the parking of additional commercial vehicles without amending the Conditional Use permit.
2. The applicant shall maintain the solid row of evergreen trees along the south, west and north property lines except at the driveway entrances.
3. The applicant shall plant and maintain a solid row of evergreen trees along the east property line.

4. The applicant shall comply with all other conditions for a rural home occupation except for the standards that were specifically waived as part of this Conditional Use.
5. Any violation of the conditions approved, as a part of this request, shall render the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: There are single-family homes located to the south, southwest and east of this property, zoned "RR." The property to the north and west is also zoned "RR" but is undeveloped agricultural land.
2. Extent to which removal of the restrictions will detrimentally affect nearby property. The property to the south, west and north is undeveloped land. Staff is recommended that the applicant plant a solid row of evergreen trees along the east property and add plantings to the hedgerow on the west (where there are missing cedar trees).
3. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The Land Use Map of the Comprehensive Plan identifies this area as appropriate for "agricultural" use. The category can allow other uses common in rural areas, which are no more offensive than normal agricultural uses. This request does not conform to the agricultural intent of the Comprehensive Plan.
4. The suitability of the subject property for the uses to which it has been restricted: The property is currently zoned "RR" and is developed with a single-family home. If the applicant were able to meet all of the Unified Zoning Code requirements for a home occupation then the applicant would be permitted to park the tractor-trailer on this property "by-right."
5. Impact of the proposed development on community facilities: The private driveway is required to be maintained by the applicants. 77<sup>th</sup> Street North will be impacted somewhat but should not be significant.

**CARROLL** "The applicants are here. They are requesting a Conditional Use to allow parking and storage of a commercial vehicle, one tractor, one trailer in a rural home occupation. This property is currently zoned 'RR' Rural Residential. Mr. Curtright owns a tractor/trailer and wants to park it on his driveway. He has talked with his neighbor to the east. The neighbor is in total agreement with this. Dale and I went to the Valley Center Planning Commission on Tuesday night. The Commission voted to approve this request unanimously, with a couple of recommendations. I think we gave you an updated list of those.

We had recommended initially on the east side that there be cedar screening plantings. His neighbor to the east and Mr. and Mrs. Curtright have planted an orchard and they would prefer that the orchard serve as the screening. Also, from a neighborhood watch prospective, they can see each other's properties better with an orchard than a solid screening fence of cedar.

We are recommending approval subject to the following conditions:

1. This Conditional Use only be for a home occupation regarding the parking of one tractor and trailer.
2. No additional employees or parking of any other commercial vehicle.

At the Planning Commission meeting in Valley Center, the Commissioners wanted to make sure that the request didn't include an additional trailer. The applicants just have one truck, one trailer.

3. There is good screening along the south, west and north property lines. The applicants will maintain the orchard, or if at some later date, they could maintain a solid row of evergreen trees.

That was a recommendation by the Valley Center Planning Commission.

4. The applicants will comply with all other conditions for a rural home occupation.
5. Any violations would render this request null and void.
6. Compliance with the terms of this Conditional Use will be reviewed in eight years, (2008) in an effort to determine whether the use should be continued or discontinued.

They were thinking that this area is growing and expanding and it may look very different in eight years than it looks right now. I would be glad to answer any questions."

**GAROFALO** "I looked favorably on that 6<sup>th</sup> Condition. My only other concern is what if the property changes hands?"

**CARROLL** "That was a question that was asked by the Valley Center Planning Commission. The request goes with the land and that was one of the reasons that they wanted to review it at the end of eight years."

**GAROFALO** "I think maybe we ought to include in there that the Conditional Use permit would remain valid or in force as long as the current owner owns the property."

**CARROLL** "As I understand it, we can't do that, by State law."

**GAROFALO** "Haven't we done that before?"

**MILLER** "You are looking at land use, and either the land use is appropriate or it is not, irregardless of who owns it."

**GAROFALO** "I thought for sure that we had made that provision before."

**MILLER** "The County Counselor won't let us do that."

**CARROLL** "That is the same question that was brought up Monday night."

**GAROFALO** "I stand corrected. Are there any other questions?"

**MILLER** "Frank, what we have done is described certain uses so that it only applied to one kind of operation, but we have never tied it to a particular owner. I guess maybe that is what you are thinking of."

**GAROFALO** "Maybe so."

**HENTZEN** "Item No. 1 covers that."

**LOPEZ** "Mr. Chair, for clarification, we had a similar case last year; a request for trailer and truck parking. What was the defined term of years on that Conditional Use? I don't believe it was eight years, I think it was five years."

**CARROLL** "That was something that the Valley Center Planning Commission made in their motion, so we just wanted to let you know what they suggested."

**MILLER** "They discussed Item No. 5; they discussed Item No. 7, and the motion ended up being eight years."

**GAROFALO** "The case you are thinking about is the case I was thinking about. I know we put a time limit on it, but I thought we had also done the other. I think we put a five year time limit."

**LOPEZ** "Yes, a five year limit."

**GAROFALO** "Okay, we will hear from the applicant, then."

**DONALD CURTRIGHT** "I have never done this before, so please excuse me. I live at the residence. This is my only occupation; I don't have any others, unfortunately. If I can't park my truck there, I am kind of stuck with parking it wherever I can find a corner and be run off like everybody has been for a good number of years. We have all seen what that does to the neighborhood, too."

I intend to maintain respectable parking for the vehicle. I don't want an eyesore in my yard or the neighborhood. That is about all I have to say, and if there are any questions, I would be happy to answer them."

**GAROFALO** "Are there any questions of the applicant? Okay, thank you, sir. Is there anyone else to speak in favor of this application? Is there anyone to speak in opposition? Seeing none, we will bring it back to the Commission."

**CARROLL** "I might add that a neighbor spoke in support of this at the Valley Center Planning Commission."

**MOTION:** Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: There are single-family homes located to the south, southwest and east of this property, zoned "RR." The property to the north and west is also zoned "RR" but is undeveloped agricultural land. Extent to which removal of the restrictions will detrimentally affect nearby property. The property to the south, west and north is undeveloped land. Staff is recommended that the applicant plant a solid row of evergreen trees along the east property and add plantings to the hedgerow on the west (where there are missing cedar trees). Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The Land Use Map of the Comprehensive Plan identifies this area as appropriate for "agricultural" use. The category can allow other uses common in rural areas, which are no more offensive than normal agricultural uses. This request does not conform to the agricultural intent of the Comprehensive Plan. The suitability of the subject property for the uses to which it has been restricted: The property is currently zoned "RR" and is developed with a single-family home. If the applicant were able to meet all of the Unified Zoning Code requirements for a home occupation then the applicant would be permitted to park the tractor-trailer on this property "by-right." Impact of the proposed development on community facilities: The private driveway is required to be maintained by the applicants. 77<sup>th</sup> Street North will be impacted somewhat but should not be significant.) I

move that we recommend to the governing body that the request be approved, subject to the following:

1. The Conditional Use shall only be permitted for a home occupation involving the parking of one tractor-trailer. There shall be no additional outside employees or the parking of any additional commercial vehicles (or an additional trailer) without amending the Conditional Use permit.
2. The applicants shall maintain the solid row of evergreen trees along the south, west and north property lines except at the driveway entrances.
3. The applicants shall maintain the existing trees in their orchard along the east property line (in conjunction with their neighbor's orchard) or plant and maintain a solid row of evergreen trees along the east property line (per Valley Center Planning Commission).
4. The applicants shall comply with all other conditions for a rural home occupation except for the standards that were specifically waived as part of this Conditional Use.
5. Any violation of the conditions approved, as a part of this request, shall render the Conditional Use null and void.
6. Compliance with the terms of this Conditional Use will reviewed in eight years (2008) in an effort to determine whether the use should be continued or discontinued (per Valley Center Planning Commission).

**JOHNSON** moved, **WARREN** seconded the motion.

**GAROFALO** "Is there any discussion?"

**VOTE ON THE MOTION:** The motion carried with 9 votes in favor. There was no opposition.

8. **Case No. ZON-2000-00002** - Steven Lee (property owner) Lonny Moore (Contract purchaser); Dean Felt (agent) request zone change from "LC" Limited Commercial to "GC" General Commercial on property described as:

Lot 2, Block 1, Leewood Heights 3<sup>rd</sup> Addition, Sedgwick County, Kansas. Generally located 600 feet north of 53<sup>rd</sup> Street North and east of Meridian.

**DALE MILLER**, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report.

**BACKGROUND:** One of the applicants currently operates a paint and body shop in Sedgwick. He also lives near the application area that is located approximately 600 feet north of 53<sup>rd</sup> Street North and east of Meridian. The applicant would like to move his vehicle repair business to the application area. The site is a platted lot containing 1.02 acres. The applicant's site plan depicts a 5,000 square foot single-story building with metal siding located in the center of the site. Access to the site would be from Meridian with parking shown on the east, south and west of the building. Thirty-two parking spaces are shown. The plan depicts a 40-foot front yard building setback along Meridian. The building is shown 70 feet west of the east property line, 50 feet north of the south property line and 84 feet south of the north property line. A 24-foot landscaped buffer is shown along the east property line, and a 10-foot landscaped buffer along the west and most of the south borders. A six-foot solid screening fence would be provided. The fence would run from the northeast corner of the building north five feet then east to the property line then south along the property line then west until it is even with the back of the building and then north to the southeast corner of the building.

Surrounding uses include vacant "LC", Limited Commercial and "GO", General Office land (Lot 3, Leewood Heights 3<sup>rd</sup>) located immediately north of the application area. North of the "LC" and "GO" lot, is a corner lot zoned "SF-6", Single-family with a residence that faces 54<sup>th</sup> Street. There are other single-family homes along 54<sup>th</sup> Street North on "SF-6" zoned lots. There are also single-family residences located along Sedgwick. Sedgwick is the first street east of the application area. There is vacant residentially zoned land located immediately east of the application area (Lots 10 and 11). The closest residential lot with a house is approximately 120 to 150 feet northeast of the applicant's proposed building (Lot 12). The "LC", Limited Commercial land to the south is developed with a convenience store. The "LC", Limited Commercial land located west, across Meridian, is vacant. The southwest corner of the intersection is zoned for single-family use while the southeast corner is zoned "LC" and is used for a nonconforming machine shop/welding shop type use.

Parking requirements for "vehicle repair, general", are 1 space per 500 square feet of building plus 3 spaces. The applicant would need 13 spaces to meet code. The site plan depicts 32, 17 of which are screened and evidently intended for storage of vehicles that have been or will be repaired. "Vehicle Repair, General" is defined by the UZC as an establishment that is primarily engaged in painting of or body work to motor vehicles or heavy equipment, and is first permitted in the "GC", General Commercial district.

**CASE HISTORY:** Leewood Heights 3<sup>rd</sup> Addition was platted in 1979.



**ADJACENT ZONING AND LAND USE:**

NORTH: "LC", Limited Commercial and "GO", General Office; vacant  
EAST: "SF-6", Single-family Residential; vacant and residences  
SOUTH: "LC", Limited Commercial; convenience store  
WEST: "LC", Limited Commercial; vacant

**PUBLIC SERVICES:** Public sanitary sewer service is not currently available to this location. Sewer lines are located approximately ½ mile to the south. Public water is available. Meridian is a two-lane arterial carrying approximately 6,000 average daily trips in 1996. The Health Department will have to approve any on-site sanitary facilities.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterial streets and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The Commercial Locational Guidelines also recommend that auto-related commercial uses should be guided to cluster in areas and streets where these uses may already exist or to locations where traffic patterns, surrounding land uses, and utilities can support these activities.

**RECOMMENDATION:** Based on the information available prior to the public hearing, MAPD staff recommends the application be DENIED. However, should the Commission determine this request is appropriate for this location, staff recommends the approval be subject to the following "Protective Overlay" conditions:

1. Uses permitted are restricted to "vehicle repair, general" and "LC", Limited Commercial uses except for correctional placement residences, night club, restaurant with drive-through and tavern and drinking establishment.
2. No outside storage of salvaged vehicles or parts shall be permitted.
3. All parking, storage and display areas shall be paved with concrete, asphalt, or asphaltic concrete. Parking barriers shall be installed, except at driveway entrances or where fences are erected, to prevent vehicles from encroaching onto the right-of-way.
4. Outdoor speakers and sound amplification systems shall not be permitted.
5. Lighting standards of Section IV-B.4 of the Unified Zoning Code shall be complied with.
6. All repair activities shall take place indoors, and overhead doors shall remain closed except to permit vehicles to enter or leave the building.
7. The site shall be submitted in general conformance with the site plan approved by the commission.

This recommendation is based on the following findings:

3. The zoning, uses and character of the neighborhood: Adjoining property is zoned a combination of "LC", Limited Commercial, "GO", General Office and "SF-6", Single-family Residential. There are single-family homes within 120 to 130 feet of the site. Some of the single-family zoned property is developed and some is undeveloped. However, the overwhelming majority of the quarter section where this site is located is developed with residential use. The area has been recently annexed and is located within the Maize school district, a district that has a positive perception among school patrons.
4. The suitability of the subject property for the uses to which it has been restricted: The site could be developed as currently zoned. The "LC" district permits a multitude of uses that are appropriate and compatible with existing uses and zoning.
5. Extent to which removal of the restrictions will detrimentally affect nearby property. Approval of this request will negatively impact nearby residential uses by permitting a use that has a negative perception. This site is just now ripe for development in that it has been recently annexed and public water has been extended along Meridian. Sanitary sewer is located ½ mile to the south. The Moorings residential development located west and south of 53<sup>rd</sup> and Meridian has a preliminary plat up to 53<sup>rd</sup> Street. Harbor Isle, a housing subdivision located further south and east of Meridian has been successful. Introduction of a paint and body shop in an area that is partially already developed with residential uses and just now coming into its full development potential would significantly impede further development.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterial streets and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The Commercial Locational Guidelines also recommend that auto-related commercial uses should be guided to cluster in areas and streets where these uses may already exist or to locations where traffic patterns, surrounding land uses, and utilities can support these activities. There are not any other auto-related uses along Meridian. Approval of this request would introduce a type of use that currently does not exist in this general location and would not be in conformance with adopted plans.
1. Impact of the proposed development on community facilities: Public sewer is not available to this site at this time. Approval of on-site facilities will have to be obtained from the Health Department.

**MILLER** "The applicant currently operates a shop in Sedgwick and is interested in moving his business closer to the Wichita area and has selected this spot. There is a revised site plan at your location; however, this particular one, I think, remains the same. They are showing landscaping along the east side, along the south and along the west. On the site plan, the applicant is also showing a fence that would enclose the back area."

**WARREN** "Did you say there is a fence between there?"

**MILLER** "He is proposing to have a fence in this fashion (indicating) around the back of the building if this is approved. The building, I believe is a 5,000 square foot one-story building. Access here would be off of Meridian. The convenience store sits in this location (indicating) approximately today."

**LOPEZ** "The staff report says 'single-family vacant and residence'. Is that the vacant one?"

**MILLER** (Indicating) "Yes, this area here is vacant, residentially zoned property."

**WARREN** "And it is on the west side of Sedgwick?"

**MILLER** "Yes. West of Sedgwick, but east of the application area."

**JOHNSON** "Would those be in the notification areas where they were notified of this case?"

**MILLER** "Let me see, this is a City case, isn't it? I can't remember exactly how far we did notify."

**MAN FROM THE AUDIENCE** "Those people were notified. It was for 250 feet."

**MILLER** "Okay, I couldn't remember the distance."

**GAROFALO** "Dale, let me just ask, the property just to the north there, is that City property?"

**MILLER** "Apparently. I haven't been able to track that down yet. I had some calls into the Property Manager to verify that."

**WARREN** "What is across the street on the corner west?"

**MILLER** "It is vacant. This is all vacant here. You can see that there is single-family zoning around the 'LC' to the north and then the office before you hit that house on 54<sup>th</sup> Street."

There is no public sewer out there. The closest sewer is approximately half a mile to the south, public water is available."

**WARREN** "How does that convenience store operate without sewer?"

**MILLER** "It must be on a septic system. At this point in time, staff is recommending denial of this application. Basically we feel like this area is just now coming into it's own with respect to development potential with the Moorings moving up from the south to the north; sewer being half a mile south. This area was recently annexed into the City of Wichita and there has been a loop water line run in this area so it is now a loop system and it is our feeling that it is a little early to be granting zoning for a use of this type this close to residential where it basically backs up to it on the east there with the homes already in place, and the potential that this intersection where this corner and this corner could be redeveloped, if that is the right word, with nicer uses on the corner and we feel like approving a use like this at this point is not the appropriate thing to do at this time."

But if you decide that this is the appropriate thing to do, there is a list of conditions that we would recommend. They are on Page 3. I believe, in talking with Mr. Felt, I believe that the one that the applicant feels like he couldn't live with at all, and he may not agree with the others totally, but the one he couldn't agree with at all is the one that indicates that the overhead doors would have to remain closed except when vehicles enter and leave the building. It is my understanding that the building would not be air conditioned. With that, I will try to answer any questions."

**JOHNSON** "Dale, the property directly north is zoned what?"

**MILLER** "It is zoned 'LC' then General Office, and then that is the house."

**GAROFALO** "Are there any other questions of Dale? Dale, show me again where the convenience store is."

**MILLER** "The convenience store is located on this tract (indicating)."

**GAROFALO** "Right there. And there is nothing across the street?"

**MILLER** (Indicating) "This is vacant, this has some uses on it, it is kind of hard for me to tell exactly what was going on there."

**GAROFALO** "Are there any other questions of Dale? Okay, then, we will hear from the applicant."

**DEAN FELT** "I am with Felt Kingdom Associates, and agent for the applicants. The part about leaving the doors closed, in a paint area, you have got to be able to bring air in because you are taking a lot of air out. You need it for ventilation in the shop"

area. If you are taking out 8,000 CFM of air, do you know what it would take to run an air conditioner to keep the air cool in there? It just doesn't work.

One item that we had on our list that we would grant, we would give back one approach that was granted in platting onto Meridian. We just want one in the south 140 feet. That should help traffic control out there. We are going to generate a lot less traffic than a convenience store does or a fast-food restaurant that could be put in here. And a lot cleaner for the neighborhood. The gentleman does not part out cars. If he brings in a car, it sets there until he gets the parts, it is repaired and goes back to the customer. The other parts are put in a dumpster and taken to the scrap or shredder. I would be happy to answer any questions."

**GAROFALO** "So you are saying that there aren't going to be any junk cars laying around and sitting around?"

**FELT** "Only until they get the parts there to work on them. If a person wrecks his car, it is going to look like a piece of junk until they get the parts there to repair it. If it is non-repairable, it goes back to the owner and it won't stay here. The fenders and bumpers he takes off of the car will go in a dumpster that will be in the back area and when it reaches a certain level of fullness, it will go to the scrap or shredder."

**GAROFALO** "I would have to see that. It would probably be the first one I have ever seen that didn't have a bunch of junk around."

**WARNER** "If you require the overhead door to be open, what do you do when it is 10 degrees in the dead of winter?"

**FELT** "We have make-up air. For heating in the wintertime, we use make-up air. We can heat the air, but we can't pull enough air through a vent to ventilate in the summertime when it is 100 degrees outside and 120 degrees inside. If you have a door open, you can bring air through the door with fans. The paint booth, of course, has it's own filters on."

**WARREN** "What type of fence do you project this to be?"

**FELT** "A 6 foot wood fence is what we are projecting."

**WARREN** "Have you worked your sewage out here?"

**FELT** "No, we have not, but I am positive that the County would grant us the use of a septic as long as we signed a petition that if and when sewer was available that we would do our share."

**WARREN** "This would, I suppose, be subject to the Health Department regulations?"

**FELT** "Yes, we would have to go through the Health Department."

**PLATT** "I am confused. Are you telling me that all paint booths in Wichita are open in the summertime?"

**FELT** "Most of them have their door open. Not the paint booth itself, but the body shop where they are working on the cars, most of them have the doors open. I did Cameron's on south Washington and I'll guarantee you that their doors are open in the summertime."

**GAROFALO** "Are there any other questions? Okay, thank you. Is there anyone else to speak in support of this application?"

**LONNY MOORE** "I brought this proposal forth. The open door situation, is basically that you just can't beat natural lighting when you are trying to work. The salvage situation, I did this on the side as a hobby and I was able to maintain my salvage to you didn't even know I was doing this particular line of work. When I drew this building out, the design I had in mind is when you pull up, you had to second guess yourself to even know if you are a body shop. I didn't want to limit this building to just a body shop, but I wanted to bring a business back into Wichita, since for the past four years, every lick of work that I have gotten out in Sedgwick has come from Wichita. I grew up in this area and I know everybody in the area. It just appeared to me that this lot had been sitting and I had showed some interest in this lot and I felt that I could offer something to this area. Something nice, probably something that would not put a black eye on the Moorings coming that way. I know you have the Valley Center traffic coming and going and they don't want to look at body shop filth. That is the reason we had offered the screening."

The doors go down at 6:00 o'clock in the evenings. I am operating this deal like a business. A lot of body shops will run around the clock if they have to. I propose a body shop that works regular business hours and looks like something you would see when you step out your back door, a nice clean atmosphere and a nice yard. That is about all I have to say."

**GAROFALO** "Are there any questions of the applicant? Okay, thank you. Is there anyone else to speak in support? Is there anyone to speak in opposition? Please state your name and address."

**ROGER RAMSEY** (Indicating) "I live right here. I had a couple of questions on what he said. I heard him say today that he was going to close at 6:00 and I don't see that in the list of things here. Also, I am curious as to how, if a guy needs the air in the summertime, why doesn't he need it in the wintertime, as far as the make-up air? The air end of that operation that concerns me is the air coming out, not the air going in."

With body shops you have odors. Everybody knows that. They filter, but it doesn't filter the odors. But the main thing of this whole thing is if you look at this at the area there, that has been 'LC' for years and they haven't managed to develop it. It looks to me like now is the right time to develop it. There are more houses in the neighborhood all of the time, and I think me and everybody else in the neighborhood assumed, real estate offices, various insurance and banks, jewelry store and whatever business would be there. The neighbors I have talked to, and I see some of them here today didn't see anybody that would want to see a body shop in the neighborhood. Less than a mile down the street there is one for sale. There are seven of them in the Valley Center area, and I don't think there is a need for another one there, particularly. Less than a mile away there is one for sale if he wants a body shop. It is already set up there that he could purchase.

I don't know Mr. Moore. I know some of his family. I certainly don't have a problem with him at all individually, I just don't think this is the place for that operation. End of that. Those are my comments."

**JOHNSON** "Apparently, one of your concerns is that of the doors being open? If the doors were kept shut you wouldn't be opposed to it?"

**RAMSEY** "No. Most everybody that has been around body shops knows that 8:00 to 5:00 are nice hours, but when a hail storm hits and the money is there, they are there to 10:00 or midnight beating the fenders and getting those cars out. It's just the nature of the business."

**JOHNSON** "You do understand that if somebody acquired that property just north of this, they could get a permit on a body shop tomorrow?"

**RAMSEY** "The property north of it? Where are you talking about?"

**JOHNSON** "That that the City supposedly owns north of this."

**RAMSEY** "The City doesn't own that by the way."

**JOHNSON** "That is the information we got."

**RAMSEY** "Oh. If you look at that map, I think the representative for the applicant could tell you that. I think that is in the City of Wichita now. If you will notice, the City of Wichita goes over to the other side. I think they were just designating that that is a street."

**JOHNSON** "Okay. Whoever owns it, it appears that it is zoned Light Commercial and it could be..."

**RAMSEY** "I thought the property north of it was zoned Office Commercial. (Indicating) This property right here?"

**JOHNSON** "No, the property that is red."

**RAMSEY** "The red is zoned 'LC' if I am not mistaken. I think it is all zoned 'LC' now. I am not 100% sure on that, but it is my understanding."

**GAROFALO** "Is there anyone else to speak in opposition?"

**MIKE MELZER** "I live at 54215 North Sedgwick, right there where you see the corner of the fence there. One concern that I had was that on this plot here he is showing that his paint booth is going to be right there in my back yard. I am really not in favor of having a paint booth spraying out its odors out there in my back yard. I also have pictures I brought, if you would like to see them. He says he is putting up a 6-foot fence, well I have a 6-foot fence that is standing up there right now and when I look out on my deck, when I stand out there, I can see over my fence real well. The only thing I am going to look at, according to his plan here is, he said if he didn't have the vehicles fixed, that is where they are going to park at, that is what I am going to look at. I am not really in favor of having a \$150,000 home and look out and see a bunch of junk cars setting out in my back yard. It just doesn't get it.

According to the way I see it, this right in here, both the green and the red there is for office space. The zone that he is wanting to purchase is Light Commercial and also this over in here is Light Commercial. Also, this over in here is Light Commercial. It is my understanding that the rest of that is for office space only in there. I don't know what you have down there, but that is what I think it is.

Another concern we have is that they wash out their stalls and that. That water has to go somewhere and it is going to go into a septic which is going to go into our groundwater. Most of that neighborhood did not convert over to city water, they are still on well water. I am one of them that is still on well water and I just don't want this stuff getting into my groundwater. I am not too hep with the cars parked out back there to where I can see them. I will grant that the guy has a good deal going for a body shop, but I just don't think that a body shop should be in the back yard of a residential neighborhood. Thank you."

**GAROFALO** "Are there any questions of the speaker? Thank you. Is there anyone else to speak in opposition?"

**TODD HALEY** "I live at 5455 North Sedgwick. I just wanted to say that I am in agreement with what Roger and Mike had to say in opposition to this. I really don't see any benefit of a paint and body shop in this area. I am concerned that the property values would decrease. I also share the same concerns as these two guys. I just don't feel that we need that in our area."

**WARREN** "Where do you live up there?"

**HALEY** "I live next to Mike. The house north of Mike's on the corner."

**GAROFALO** "Are there any other questions? Thank you. Is there anyone else to speak in opposition? Okay, the applicant then has two minutes of rebuttal."

**FELT** "The question was raised on the doors being open in the wintertime and in inclement weather, they do pull them down. They do pull them down, to maybe 3 to 4 inches off the ground. We use a make-up air heater for the outside air that we bring in that goes through the paint booth. You can't conquer it, it takes a special furnace. It takes a high pressure gas line, not the four ounce that you have in your house. It takes 8 ounces to run the unit. The screening fence has a 20-foot landscape belt that we have offered at the back. It would stay as landscaping back there, which is far above what is required by the ordinance for landscaping, and we can oversize the trees so that when they start out they are larger trees, and those would be shade trees, not ornamentals.

I have been to this gentleman's shop in Sedgwick. I have been by the body shop that is south of there. Now the welding shop across the road has been there for years and they are on the second and third generation and they built buildings there. They weld frames for metal buildings. Are there any questions?"

**OSBORNE-HOWES** "You would make sure that these shade trees would keep all of their leaves on them over the winter?"

**FELT** "I would love to. The City Ordinance says that they have to be deciduous where they drop their leaves."

**OSBORNE-HOWES** "The question that I have is on your drawing you have parking along the back. Is that where the wrecked cars would be?"

**FELT** "That is where they would be, yes."

**OSBORNE-HOWES** "One of the stipulations, No. 2, is no outside storage of salvage vehicles or parts."

**FELT** "Those are not salvage vehicles or parts. Those are customer's cars being there to be serviced. They are not ones that he is parting out and selling parts off of. They are not salvage. They are salvage when they become off-road title as a junkyard has. These are titled, tagged cars."

**OSBORNE-HOWES** "But there would be wrecked cars out there."

**FELT** "Yes."

**GAROFALO** "Are there any other questions?"

**WARREN** "I don't know if this would make any difference at all, it probably wouldn't, but would there be any interest in moving that fence to the west so that it would be right up against those cars?"

**FELT** "I would have no problem with that. (To man in the audience) "Ronnie, would you have any problem with putting the fence and then the landscape to the neighbor?"

**WARREN** "The landscape to the outside."

**MAN FROM THE AUDIENCE** "I wouldn't have a problem with that."

**FELT** "We don't have a problem with that."

**WARREN** "Dale, would this be a place where an 8 foot fence might be appropriate with special conditions?"

**MILLER** "Certainly, if screening is an issue, then additional height is a reasonable request."

**WARREN** "Would you be interested in maybe this new brick-type cement fence..the decorative?"

**FELT** "If that is what it takes to get the zoning, I don't think the buyer of the land and the owner of the body shop would have any problem. He doesn't want to spend the money, but if that is what it takes to get the zoning, it can happen."

**GAROFALO** "Are there any other questions? Okay, thank you. Dale, I have a question. I am looking through the book here; on 'LC' I notice 'vehicle repair limited'. What do we mean by limited?"

**MILLER** "Vehicle repair limited is everything except for paint and body shops. It allows engine repairs, etc., like service stations and those sorts of things, but it doesn't allow for a body shop where there is going to be painting and fender work and that sort of thing. That is vehicle repair general, which requires 'GC' zoning."

**JOHNSON** "It is better to give it General Commercial rather than doing like a Conditional Use or something like that?"

**MILLER** "It is not permitted in 'LC'."

**WARREN** "Mr. Chair, I would like to ask, and they can keep their seats, the gentlemen who spoke in opposition, if in fact, that fence was moved, say 20 feet inside the property line and increased to 8 feet, would that make a difference to you fellows? Anybody can speak on that."

**MILZER** (From the audience) "Not really. Another thing we failed to mention was the noise, if they are going to keep the doors open in the summertime."

**LOPEZ** "I have a question of Dale. Dale, the physical size of the lot and the facilities that are proposed to go on that lot. Isn't this below the standard for septic systems of all types?"

**MILLER** "No. The Health Department determines the minimum lot size when a septic system is involved."

**LOPEZ** "How about for the septic or sewer system since it is a commercial facility that is going to be dealing with paints and thinners?"

**MILLER** "The Health Department would have to review it, and if they can't do what the Health Department asks them to do, then even though they have the zoning, they wouldn't be able to proceed."

**WARREN** "They would have to have a holding tank. We approved one of those with a holding tank."

**GAROFALO** "Are there any other questions?"

**MILLER** "Just a point of clarification. The screening trees wouldn't have to be deciduous if you wanted to make them evergreen or whatever. That is up to you. They could be pine or whatever, if you think deciduous is not appropriate there, or you could do a mix. However you want to do it."

**OSBORNE-HOWES** "I am just not convinced that this is an appropriate location. As a matter of fact, I am convinced that it is a very inappropriate location for this. I appreciate that the applicant has tried to design something to make it look good, but it backs up to residences. I mean, why on earth would we do this and not do it anywhere? The noise...I could list so many factors, but we are really trying to be conscious of time here. I will be glad to if somebody wants me to, but I just cannot support this."

**WARREN** "Commissioner, if you look and see what goes into 'LC' zoning, though, this might be a better use than what they might use it for as a permitted use."

**OSBORNE-HOWES** "I am having a hard time thinking about that even though they may not be salvaged automobiles, but they are going to be wrecked automobiles backing right up to somebody's back yard. I don't care what you do here, I just can't do that. That is just for the record."

**PLAT** "I can't envision anything worse than a body shop next to residential back yards. That is why we have the zoning ordinance the way it is. I am going to move to deny this."

**MOTION:** Having considered the factors as contained in Policy Statement No. 10; taking into consideration the zoning, uses and character of the neighborhood; the suitability of the subject property for the uses to which it has been restricted; the extent to which removal of the restrictions will detrimentally affect nearby property; conformance of the requested change to the adopted or recognized plans and policies; and impact of the proposed development on community facilities; I move that we recommend to the governing body that this application be denied.

**PLATT** moved, **OSBORNE-HOWES** seconded the motion.

**GAROFALO** "Is there any discussion?"

**JOHNSON** "Well, you are talking about the main entrance into Valley Center. You can drive up and down and there are lots of body shops that back up to residential neighborhoods; Peel Loading Islands, a little bit of everything."

**OSBORNE-HOWES** "You aren't asking me to approve it."

**JOHNSON** "And I am not either, I am just stating that. There have been drastic improvements in Meridian North there. It is already zoned 'LC'. We know what is going to be there. He can't exhaust anything that is harmful to anybody. That is required. He can't put anything in the drain that he can't put in the drain. I guess one other thing. I heard one of the Commissioners make a comment about, again, labeling body shops. I think that is kind of in poor taste until you seen his particular operation. I wouldn't like to be labeled as just being a body shop. That goes on every now and then, and I know that there are some real messy ones and there are some real messy service stations. There are some real messy convenience stores, and some real messy everything, but let's don't label it until we see the full picture. I think it would be a good use for it seeing what else is in the neighborhood."

**WARNER** "I disagree. I think it is an inappropriate use. I am more concerned with the odor and the noise. I think that there are a lot better locations to be found for this type of business and it doesn't need to go here."

**GAROFALO** "Is there any other discussion? I tend to agree. I don't think it is an appropriate location because of the residential so close. I would like to give it an opportunity to maybe end up with more residential in that area. I realize the way it is zoned now, but there is still that chance. It is so close to that residential, I just don't see it as being an appropriate use. So I am going to support the motion."

**WARREN** "This is a case where I wish that our Zoning Ordinance would provide that we could use a Conditional Use; leave it as 'LC' with a Conditional Use subject to conditions which we could place on it. It is something I think we need to take a look at. I am a little like Commissioner Johnson. I don't think you can label body shops and think of the worse case scenario because they have upgraded tremendously in the last few years to where they are very desirable appearing buildings."

**VOTE ON THE MOTION:** The motion carried with 7 votes in favor, 1 vote in opposition (Johnson).

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9. **Case No. CUP2000-00001** - RRM Properties, LLC, c/o Ron Cornejo; All Star Sports request an amendment to CUP DP-172, Parcel 2 to permit an electronic moving sign in the "GO" General Office district, described as:

Lot 2, Block 1, Golf Park West Addition, Wichita, Sedgwick County, Kansas. Generally located east of Tyler Road on the south side of 21<sup>st</sup> Street North (8333 West 21<sup>st</sup> Street North).

**DALE MILLER**, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

**BACKGROUND:** The applicant is requesting an amendment to Community Unit Plan (CUP) DP 172 to allow for a change in the location of signage permitted by the CUP, as well as a change in the height and area of the signage permitted in the "GO", General Office district. All Star Sports is located south of 21<sup>st</sup> Street North, between Tyler Road and Woodchuck, and is a large recreational facility, that is zoned both "GC" General Commercial (Parcels 1A and 3) and "GO", General Office (Parcel 2). Development of the site, including signage, is controlled by the provisions contained in the CUP.

Per CUP General Provision #6: One sign, advertising the recreation facility, shall be permitted along 21<sup>st</sup> Street North and it shall be within the "GC" zoning district of Parcel 3. The sign shall be no more than 150 square feet [in area] and 30 feet in height. One (1) monument sign shall be permitted along 21<sup>st</sup> Street North for Parcel 1A (Dairy Queen). The monument sign shall have a maximum square footage of 60 square feet and a maximum height of 15 feet. Advertising signs shall be in accordance with Section 24.04 of The Code of the City of Wichita. No flashing lights, offsite or portable signs shall be allowed.

The applicant wishes erect a pole sign along the 21<sup>st</sup> Street frontage, within the parking lot area (Parcel 2) which is zoned "GO", having the size, height, and type of sign as is permitted in the "GC" zoning district. The applicant's current sign is located on the west edge of his ownership, next to the Dairy Queen site. Specifically proposed is a sign that is 29 feet 6 inches tall, 15 feet wide and 124 square feet in area, which contains an electronic moving message center. The size and height of the requested sign is within CUP guidelines, however the applicant wishes to locate the proposed sign in the middle of Parcel 2, the "GO" zoned parking lot – a location not permitted by the current CUP. Also, the electronic message element of the sign is not permitted by the Sign Code in the "GO" district.

In the "GO" District, the Sign Code would permit the construction of a pole sign for a single tenant that is 32 square feet in area and 22 feet high. Additionally, the Sign Code does not permit flashing or moving images on signs in the "GO" District. However, the Sign Code allows the MAPC to grant "variance" type changes to the sign regulations for signs located within CUPs.

The CUP signage requirement was made with the intent of limiting signage along a primarily residential portion of 21<sup>st</sup> Street North despite the more intensive use allowed for the All Star Sports facility. The original zone change and C.U.P. for this property permitted the rezoning of this property to "GC" General Commercial ("C" at the time of rezoning), except for the north 270 feet, which would be rezoned to "GO" General Office ("BB" at the time of rezoning) to act as a buffer against more intensive commercial uses and restricted to 'parking' uses. Subsequently, Parcel 1A (Lot 1 – currently Dairy Queen) was rezoned from "GO" to "GC" and the C.U.P. was amended to allow a restaurant and parking with further restrictions on signage as stipulated in the aforementioned General Provision #6. The concern of staff at that time was "the continued commercial 'stripping' of 21<sup>st</sup> Street North with high traffic generating uses, as well as the aesthetic impact of those uses along this roadway which is identified by the Comprehensive Plan as a major corridor for the community's image." (Staff Report to MAPC, March 23, 1995, DP-172 Amendment #2).

The surrounding uses are mixed in nature and include residential, churches, and commercial uses, including a fast-food restaurant, on property zoned "SF-6" and "GC". Across 21<sup>st</sup> Street, and adjacent to the east are two large churches. Directly to the south is the All Star Sports facility with residential lots directly south of that facility. Directly to the west of the parking lot is a Dairy Queen Restaurant.

**CASE HISTORY:** SCZ-0555 – “SF-20” to “GO” and “GC” were approved in 1986. CU-289 was approved in 1986 permitting a miniature golf course, batting cages, indoor recreational center and driving range. The property was platted as Golf Park West Addition and annexed in 1986. DP 172 was approved in 1987. Z-3047 (zoned change from “GO” to “GC”) and Amendment #1 to permit a go-cart track were approved in 1992. Amendment #2 which permitted “restaurants” as an allowed use in a newly created Parcel 1A was approved in 1995. Amendment #2 permitted 1 monument sign of 60 square feet and 15 feet in height. In 1999 an administrative adjustment was approved which allowed a second entrance, reduced the width of the buffer strip located along the east property line next to the church, permitted a second go-kart track for children, permitted lighted parking on Parcel 3 and reduced the parking requirement to 248 spaces.

**ADJACENT ZONING AND LAND USE:**

NORTH: “SF-6”, Single-family Residential; church  
SOUTH: “SF-6”, Single-family Residential; single-family homes  
EAST: “SF-6”, Single-family Residential; church  
WEST: “GC”, General Commercial; retail commercial

**PUBLIC SERVICES:** The request for the sign will not have any impact on public services. The site is served by public sewer and water service. 21<sup>st</sup> Street is a four-lane arterial carrying between 13,400 and 14,500 vehicles per day.

**CONFORMANCE TO PLANS/POLICIES:** 21<sup>st</sup> Street has been identified by the Comprehensive Plan as a major corridor deserving of special treatment designed to promote and enhance the community's visual image. The city and county have spent significant monies landscaping and creating medians to enhance the west 21<sup>st</sup> Street Corridor. The size and height of the proposed sign are consistent with current CUP.

**RECOMMENDATION:** Based upon information available prior to the public hearings, planning staff recommends that the request be APPROVED. However if the Planning Commission feels the request is appropriate, the application should be subject to the following conditions:

A. The sign shall be substantially the same design and located in the location as that submitted with this application.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: All the land located north, east and south of the CUP is zoned “SF-6”, Single-family residential and used for residential or church uses. To the west and northwest there are commercial uses. A “Dairy Queen” is located to the west on “GC” zoned land. Except for this use, most nonresidential uses are located closer to the corners of 21<sup>st</sup> Street and Tyler and Ridge Road.
2. The suitability of the subject property for the uses to which it has been restricted: The facility could continue to operate with its current signage.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request will move the sign closer to the east to the residential zoned property located east of the site. Approval would also introduce an electronic moving message type sign in a “GO” district, however there are two other moving message type signs in the general area.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan: 21<sup>st</sup> Street has been identified by the Comprehensive Plan as a major corridor deserving of special treatment designed to promote and enhance the community's visual image. The city and county have spent significant monies landscaping and creating medians to enhance the west 21<sup>st</sup> Street Corridor. The size and height of the proposed sign are consistent with current CUP.
5. Impact of the proposed development on community facilities: None identified.

**MILLER** “This CUP amendment is for All Star Sports on west 21<sup>st</sup> Street. Today they have a sign located approximately in this location (indicating) on ‘LC’ zoned property, I believe. This is the sign that they are proposing to put in there. It has an electronic message board on it. The height in the area is all consistent with what is allowed under the Sign Code. It is just that with that property being zoned ‘GO’, and they want to move the sign so it centers on the property after all of their renovation and refurbishing so that it is more centrally located. It is their opinion that people use the sign to locate the building and that they need the sign located in the center of the property so people will be able to find the entrances easier, rather than being located on the western edge of their property. I will answer any questions you have.”

**GAROFALO** “Dale, do we have a picture of the present sign? You may have shown one.”

**MILLER** “Yes we do.”

**GAROFALO** “And that is one of the drives going in?”

**MILLER** “Yes it is one of the drives in. The Dairy Queen is sitting off over here to the west.”

**PLATT** “Where do they want to put the sign again?”



**MILLER** "The sign would be located roughly in the center of this location (indicating) either right in here or in here."

**GAROFALO** "And is that a light fixture, a light pole?"

**MILLER** "That is what it looks like to me. It is parking lot lighting."

**GAROFALO** "But we don't actually have a picture of the present sign?"

**MILLER** "Yeah...that is their current sign. It has the All-Star Sport logo on the top and then there is a rear board here and I am not sure what that is there."

**GAROFALO** "And that is north of where the new sign would go?"

**MILLER** "Straight west."

**GAROFALO** "I meant to say west. Okay. How tall is that sign?"

**MILLER** "I'm not sure."

**RON CORNEJO** (from audience) "It is about 30 feet high."

**MILLER** "He says about 30 feet."

**GAROFALO** "So about the same height?"

**MILLER** "Yes, the proposed sign is 29 feet 6 inches tall, 15 feet wide and 124 square feet in area."

**GAROFALO** "The new sign looks like it might be nicer than that sign. Dale, are you finished?"

**MILLER** "Yes, unless there are more questions."

**OSBORNE-HOWES** "Just quickly. They are wanting one additional sign, is that it?"

**MILLER** "This would be a replacement sign. The current sign would come down and the new one would go up."

**OSBORNE-HOWES** "Okay. And the increase of square footage with that sign would be what?"

**MILLER** "I don't know that it is an increase. It is within Code required what is permissible."

**OSBORNE-HOWES** "I had a hard time understanding this report."

**MILLER** "It is within the guidelines established for that district. The only problem is that the 'GO' district does not permit a flashing sign and the CUP says that the sign has to be located in the western hedge."

**GAROFALO** "Would this be a flashing sign or would it be just kind of a computer-like one?"

**MILLER** "It would be an electronic message one. I assume they could set it up so that it flashes or so that it runs."

**CORNEJO** (From the audience) "More of a message board."

**MILLER** "Are there any other questions of Dale? Okay, we will hear from the applicant then."

**BOB KAPLAN** "I am at 430 North Market. Essentially what we are asking for is permission to relocate the sign. The new sign is configured; it is actually going to be a smaller sign than the sign which could be built in the existing location. He is not building it to the ultimate that would be permitted. The problem is that he wants to slide it 200 feet plus to the east for two reasons, really.

One to center it and to get separation between the new sign and the Dairy Queen sign. If you look at the slides, you will see that the Dairy Queen sign and his existing sign are in very close proximity to each other. He feels that if he can center it on the property he can get better separation between the sign.

If approved, we are going to locate a smaller sign than that which we could relocate on the existing site. The problem is that when go east you leave the 'LC' zoning under the CUP and you go to a 'GO' district. I think probably, and I am not familiar with the history of this CUP, it is an old one, but I am going to guess that probably the reason that that was not zoned 'LC' was that the original owner was using that for parking, a parking lot, so all it required was 'GO' zoning. The sign is currently located in an 'LC'. So basically it is seeking permission just to slide it to the east."

**GAROFALO** "Are you finished? Okay. Any questions?"

**LOPEZ** "Do you agree with staff comments?"

**KAPLAN** "Yes."

**OSBORNE-HOWES** "I have a question for Mr. Cornejo. Remembering back in the history of some of this since you purchased it, and I know you had done such a good job of meeting with the neighborhood, and when you had your grand re-opening, inviting them out. Do they know of your plans?"

**RON CORNEJO** "Yes. We did notify, through official notification and we have stayed in fairly close contract with most of the neighbors."

**OSBORNE-HOWES** "They are aware of where you are moving the sign, which is really closer, I think, to the neighborhood?"

**CORNEJO** "Yes. Really there are not a lot of residences we are moving closer to. We have the church, really, to the east of us."

**OSBORNE-HOWES** "I just want to make sure that you had contacted them or that some of the leadership of that neighborhood knew about it because you had done such a fine job of coordinating."

**CORNEJO** "We have stayed in fairly close contact with most of the neighbors and still have them over from time to time, so I don't think the sign will be an issue with them."

**OSBORNE-HOWES** "We will hear from them if so. You are a case of a business who has re-established really good contact with the neighborhood and said that you would always let them know when you made changes. I would hate to approve this and find that that would not be true."

**CORNEJO** "We will make it right with them."

**HENTZEN** "Ron, is it perpendicular to 21<sup>st</sup> Street?"

**CORNEJO** "Yes."

**GAROFALO** "Are there any other questions of Ron? Is there anything else you want to say?"

**CORNEJO** "No."

**GAROFALO** "Is there anyone else here to speak in support of this application? Is there anyone to speak in opposition? If not, we will take it back to the Commission."

**MOTION:** Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: All the land located north, east and south of the CUP is zoned "SF-6", Single-family residential and used for residential or church uses. To the west and northwest there are commercial uses. A "Dairy Queen" is located to the west on "GC" zoned land. Except for this use, most nonresidential uses are located closer to the corners of 21<sup>st</sup> Street and Tyler and Ridge Road. The suitability of the subject property for the uses to which it has been restricted. The facility could continue to operate with its current signage. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request will move the sign closer to the east to the residential zoned property located east of the site. Approval would also introduce an electronic moving message type sign in a "GO" district, however there are two other moving message type signs in the general area. Conformance of the requested change to the adopted or recognized Comprehensive Plan: 21<sup>st</sup> Street has been identified by the Comprehensive Plan as a major corridor deserving of special treatment designed to promote and enhance the community's visual image. The city and county have spent significant monies landscaping and creating medians to enhance the west 21<sup>st</sup> Street Corridor. The size and height of the proposed sign are consistent with current CUP. Impact of the proposed development on community facilities: None identified.) I move that we recommend to the governing body that the request be approved, subject to the following:

1. The sign shall be substantially the same design and located in the location as that submitted with this application.

**LOPEZ** moved, **JOHNSON** seconded the motion.

**GAROFALO** "Is there any discussion?"

**PLATT** "I am very reluctant to vote for signs that have movement in letters. If there had been any neighborhood opposition here, I certainly would have paid a lot of attention to them, I think. But since there aren't, I guess I will vote for it, but I sure don't like these kinds of signs."

**GAROFALO** "Is there any other discussion? Okay, we have a motion to approve."

**VOTE ON THE MOTION:** The motion carried with 8 votes in favor. There was no opposition.

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- 10. Case No. CON2000-00002** - Phillip G. Ruffin (Owner/Applicant); Hank Henderson (Contract Purchaser/Applicant); Austin Miller c/o Kim Edgington (Agent); Tim Goodpasture (Agent), request a Conditional Use for outdoor vehicle and equipment sales on property described as:

Lots 87, 89 and 91, Lawrence, now Broadway, Lee's 2nd Addition To Wichita, Sedgwick County, Kansas and Lots 93, 95, 97, and 99, On Broadway Avenue, Lee's Addition, Wichita, Sedgwick County, Kansas, and an unplatted tract of land described as follows: Beginning at the Northeast corner of Lot 93, on Broadway Avenue, Thence West 140 feet to the Northwest corner of said Lot 93, thence North 24.3 feet, more or less, to the Southwest corner of Lot 91, On Broadway Avenue, thence East 140 feet to the Southeast corner Of said Lot 91, thence South 25.55 feet, more or less, to the point of beginning. Generally located south of Kellogg and west of Broadway (921 S. Broadway).

**SCOTT KNEBEL**, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

**BACKGROUND:** The applicant is requesting a Conditional Use to allow outdoor vehicle and equipment sales on a 0.43 acre platted and unplatted tract generally located south of Kellogg and west of Broadway (921 S. Broadway). The subject property is zoned "LC" Limited Commercial, and outdoor vehicle and equipment sales is permitted with a Conditional Use in the "LC" district. The applicant is proposing to convert the site of a vacant convenience store into a used car lot.

The character of the neighborhood is that of mixed-use development consisting of single-family and multi-family residential development and various commercial uses. The zoning of adjacent properties to north, south, and east is "LC" Limited Commercial. The zoning of adjacent properties to the west is "B" Multi-Family. Property north of the site is developed with motels, offices, a tavern, restaurants, a used car lot, and single-family and multi-family residences. Property south of the site is developed with a laundry mat, offices, retail businesses, a used car lot, and single-family residences. Property east of the site is developed with an office and a vehicle repair business. Property west of the site is developed with single-family and multi-family residences.

The applicant has submitted a site plan showing the proposed use of the subject property. The site plan shows a 2,554 square foot sales/office building, a 528 square foot garage, a storage area, a display area, 10 employee/customer parking spaces, three 20 foot high light poles along the east property line, and a wood screening fence along the west and north property lines. The site plan does not provide for a landscaped street yard or landscape buffering due to the entire site (outside the street right-of-way) being covered with buildings or paving.

To limit the impact of the proposal on surrounding properties, planning staff recommends conditions of approval regarding signage, landscaping, lighting, noise, and display area practices. Also, due to the age of the plats, which do not provide utility easements or street right-of-way in conformance with the Subdivision Regulations, and the fact that a portion of the site is unplatted, planning staff also recommends that the Conditional Use be approved subject to the condition of platting within one year. During the platting process, planning staff will be looking to limit the number of access drives on Broadway, including the closure of the southern access drive for this site.

**CASE HISTORY:** A portion of the subject property is platted as part of Lee's Addition, which was recorded on March 22, 1883. Another portion of the subject property is platted as part of Lee's Second Addition, which was recorded December 21, 1882. The remainder of the subject property is unplatted.

**ADJACENT ZONING AND LAND USE:**

NORTH:	"LC"	Motel, Office, Tavern, Restaurant, Vehicle Sales, Residential
SOUTH:	"LC"	Personal Care Service, Office, Retail, Vehicle Sales, Residential
EAST:	"LC"	Office, Vehicle Repair
WEST:	"B"	Single-Family and Multi-Family Residential

**PUBLIC SERVICES:** This site has access to Broadway, a four-lane arterial with 1997 traffic volumes of approximately 10,000 vehicles per day. The 2030 Transportation Plan estimates the volumes on Broadway to increase to approximately 15,000 vehicles per day. Municipal services are currently provided to this site.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "Commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The Commercial Locational Guidelines also recommend that auto-related commercial uses should be guided to cluster in areas such as CBD fringe, segments of Kellogg, and other appropriate areas and streets where these uses may already exist or to locations where traffic patterns, surrounding land uses, and utilities can support these activities.

**RECOMMENDATION:** Based upon information available prior to the public hearing, planning staff recommends that the request be APPROVED, subject to platting within one year and the following conditions:

1. No outside storage of salvaged vehicles or parts shall be permitted.
2. All parking, storage, and display areas shall be paved with concrete, asphalt, or asphaltic concrete. Parking barriers shall be installed along all perimeter boundaries adjacent to streets, except at driveway entrances or where fences are erected, to ensure that parked vehicles do not encroach onto public right-of-way.
3. The vehicle sales lot shall not be conducted in conjunction with any use not directly related to such a business. Any automotive service or repair work conducted on the site shall be entirely within a building. No body or fender work shall be permitted.
4. No temporary display signs are permitted, including the use of commercial flags, banners, portable signs, pennants, streamers, pinwheels, string lights, search lights, bunting and balloons, except that fixed banners, affixed to light poles and not exceeding 50 square feet of material per light pole, will be permitted. However, in addition to the above, affixed banners or special promotional items shall be limited to twelve (12) events per year not to exceed ninety (90) days per year for all events.
5. Outdoor speakers and sound amplification systems shall not be permitted.
6. There shall be no elevated platforms for the display of vehicles.
7. The lighting standards of Section IV-B.4 of the Unified Zoning Code shall be complied with. No string-type lighting shall be permitted.
8. The applicant shall submit a landscape plan for approval by the Planning Director that provides for tree planting in the street right-of-way between the sidewalk and the curb.
9. The site shall be developed in general conformance with the approved site plan. All improvements shall be completed before the facility becomes operational.
10. Any violation of the conditions of approval shall declare the Conditional Use null and void.

The staff's recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the neighborhood is that of mixed-use development consisting of single-family and multi-family residential development and various commercial uses. The zoning of adjacent properties to north, south, and east is "LC" Limited Commercial. The zoning of adjacent properties to the west is "B" Multi-Family. Property north of the site is developed with motels, offices, a tavern, restaurants, a used car lot, and single-family and multi-family residences. Property south of the site is developed a laundry mat, offices, retail businesses, a used car lot, and single-family residences. Property east of the site is developed with an office and a vehicle repair business. Property west of the site is developed with single-family and multi-family residences.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned "LC" Limited Commercial. The property is developed with a vacant convenience store and is apparently suitable for commercial uses to which it has been restricted.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects should be minimized by the recommend conditions of approval which would limit signage, lighting, noise, and display area practices.
4. Conformance of the requested change to adopted or recognized Plans/Policies: The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "Commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. This site is located along Broadway, and the recommended conditions of approval have provisions which limit noise, lighting, and other adverse impacts. The Commercial Locational Guidelines also recommend that auto-related commercial uses should be guided to cluster in areas such as CBD fringe, segments of Kellogg, and other appropriate areas and streets where these uses may already exist or to locations where traffic patterns, surrounding land uses, and utilities can support these activities. This site is located along Broadway in an area where auto-related commercial uses already exist.
5. Impact of the proposed development on community facilities: The use of this property should have limited impact on community facilities.

**KNEBEL** "This is a Conditional Use request for outdoor vehicle and equipment sales. The property is currently zoned 'LC' Limited Commercial and outdoor vehicle sales is a permitted use with a Conditional Use in that zoning category. The property, in the most recent past, been a convenience store that is currently vacant. The applicant is proposing to use the existing buildings that are on the site for the car sales office. There is a site plan that has been provided that shows how the site would be developed. It has a storage area and a display area for vehicles and shows where the customer and employee parking would be located. It also indicates where the lights would be located, which is along the east property line, farthest from residences which back up to this property along the west. It also indicates a wood-screening fence along the west property line.

The Comprehensive Plan indicates that this area is appropriate for commercial development, and also indicates that auto-related commercial uses should be sited in areas where these uses already exist. I did fail to mention that there are actually a couple of car sales lots in the area now. The Planning staff is recommending that the Conditional Use request be approved. It is a little unusual, but we are recommending that this one be subject to platting. A portion of this site is unplatted. In addition, as the discussion that the Planning Commission has had earlier today, this is another area where there is only a 30-foot half-street right-of-way. This particular site also has three access points to Broadway. Staff would be looking to reduce that number through the platting process, as well, or the replatting.

Other conditions of approval that the Planning staff recommends is that there not be storage of salvage vehicles; that the parking areas be paved; and that they have perimeter parking barriers to prevent the encroachment upon the right-of-way; that any repair work that is conducted be conducted indoors and that there be no body or fender work; that there be no temporary display signs or outdoor speakers and sound amplification; and that there be no elevated platforms for the display of vehicles. The site is already paved and there are really not very many opportunities. As you can see, it is basically paved from property line to property line and there are not very many opportunities for landscaping, but we are asking for a landscape plan that provides for some street-tree planting between the sidewalk and this curb. I am available for questions."

**WARNER** "Why are we requiring the platting?"

**KNEBEL** "Well, the biggest reason is that you have a portion of the site that is unplatted, and then the other reasons are the access along Broadway and the street right-of-way along Broadway."

**LOPEZ** "It is showing here on the drawing that the west screening vehicle will be a wood fence?"

**KNEBEL** "That is correct."

**LOPEZ** "This is adjacent to residential. Don't we usually require masonry fences?"

**KNEBEL** "That has been required in the past, that is correct. That is a requirement above the Code, and there are many cases where, in fact we talked about it previously, one where you would have a masonry wall."

**LOPEZ** "Are you, in effect, saying that staff is in concurrence with the proposed wood fence?"

**KNEBEL** "Yes."

**WARREN** "Don't we have an active open alley behind that?"

**KNEBEL** "That is correct. In fact, the multi-family to the northwest uses the alley for parking. Their parking is in the rear."

**HENTZEN** "Scott, isn't there a wooden fence on the back side and a chain-link fence on the back side now?"

**KNEBEL** "I'm not sure, but I think there may be just a short portion of wood on the rear lot line, but most of it is chain-link currently."

**HENTZEN** "I was down there yesterday, and I think I saw a wooden fence."

**KNEBEL** "There is a wooden fence on the north side-yard."

**HENTZEN** "On the north side. I think it goes all the way down. Show us that chain-link fence. Goodness gracious, you've got two fences there already. Now, see, that is a solid wood fence."

**KNEBEL** "That is on the other side of the alley."

**HENTZEN** "I understand that. But it is there. Are you going to put a third fence up on there?"

**KNEBEL** "No, they will take down the chain-link fence and replace it with wood screening."

**WARNER** "Is the purpose of the fence to keep people driving down the alley from seeing it? Since there is already a fence on the other property."

**KNEBEL** "I think the purpose of the fence is for the use that is creating the need for the screening to provide the screening. These people have their own screening fences. They could take those down at any time; they could fall down."

**WARREN** "I thought the code provided for that. If they did take it down, it would be mandatory on the commercial side to put one up. I think that is somewhere in the Code."

**KNEBEL** "I am getting a little mixed feelings here. It seems like some of the Commission wants a masonry wall and some want no fence at all."

**GAROFALO** "That fence would run where the chain-link is now?"

**KNEBEL** "Yes."

**GAROFALO** "And then the alley is on the other side?"

**KNEBEL** "That is correct."

**GAROFALO** "Okay. Are there any other questions of Scott? Then we will hear from the applicant or agent."

**KIM EDGINGTON** "I am with Austin-Miller, agent for the applicant. For the most part, we were in agreement with staff comments. There were a couple of issues that we had questions with, one of them relating to Commissioner Warner's comment on the platting issue. Given that this is fully developed and almost entirely paved, the applicant is willing to, by separate instrument, make a contingent street dedication for that additional 20 feet and any other required utility easements, which we feel would satisfy. Also, the limitation of access control along Broadway, which would, in essence, satisfy all of the things that need to be taken care by platting."

The second issue being the wooden fence along that alleyway, given the fact that there is already is an existing wooden fence. We would be willing to agree to, at whatever point that fence on the other side, if it were to be taken down, or come into disrepair, at that point, provide necessary screening. Otherwise, we are in agreement with staff comments."

**GAROFALO** "Are there any questions?"

**HENTZEN** "Isn't there a requirement in the staff comments that it be platted?"

**EDGINGTON** "Yes, it is the recommendation."

**WARREN** "While you are there, I am going to ask Dale, if they are willing to deliver, by separate instrument, those things which we normally get through platting, couldn't we live without that plat?"

**MILLER** "The issue is that I don't believe that Central Inspection will give them a building permit for a zoning lot that is not totally platted. If a portion of this is unplatted, then I don't believe they would be able to get a building permit without platting the unplatted portion."

**WARREN** "Are you going to be building on this lot?"

**EDGINGTON** "It will require some remodel."

**WARREN** "Which will require a building permit."

**EDGINGTON** "Yes."

**WARREN** "And we couldn't grant that waiver here so that they would go ahead."

**MILLER** "Not in my opinion. We try and work with folks on that, but I don't think we can do that in this case."

**WARREN** "Which portion of this lot is not platted?"

**EDGINGTON** "There is a 40-foot portion, not quite in the middle of the lot, just to the north."

**WARREN** "Let's go back and see if you can't show us where that is."

**KNEBEL** "It doesn't indicate it on the site plan. It is just on the legal description that was provided by the applicant."

**EDGINGTON** "It shows on the staff report picture sheet."

**MILLER** "Yes, it is on your picture sheet. It is the one that doesn't have a number."

**EDGINGTON** "That is the 40-foot portion that is not platted."

**WARNER** "Is your building on that portion?"

**GAROFALO** "I don't think so."

**EDGINGTON** "It appears that that unplatted portion would be just to the south of the building."

**WARREN** "I am looking at 91. It looks like 92 is not numbered, and then 93."

**EDGINGTON** "Where 92 would be is the unplatted portion."

**WARREN** "You are kidding."

**KNEBEL** "There is a Lot 92, but it is on the other side of the alley."

**WARREN** "They left it numbered, but..."

**LOPEZ** "Somebody made a mistake."

**EDGINGTON** "Since this was platted in the 1880s, it is..."

**WARREN** "If the platting requirement stands, as it looks like it might, what does that do to your applicant. How much time?"

**EDGINGTON** "It is both a cost and time factor."

**WARREN** "How much time, everything going well?"

**EDGINGTON** "It is going to add at least a couple of months."

**WARREN** "And a cost of?"

**EDGINGTON** "At least \$3,000 to \$4,000."

**WARREN** "Dale, couldn't we approve this subject to that platting process and let them go ahead and start their operation?"

**MILLER** "That is entirely up to Central Inspection. They are the ones that issue the Conditional Building Permits."

**WARREN** "We could do it, but I guess they could stop it."

**MILLER** "They could either agree to do it or not do it. It is up to them."

**WARREN** "But at least we wouldn't hold them up 60 days...potentially."

**MILLER** "Yeah, and I guess I don't know whether or not they could plat just the individual lot that has not been platted and what that does in terms of expense for the platting agent and that sort of thing or not. This is kind of a unique deal."

**HENTZEN** "What if we just tried to say that we recommend approval and not put in subject to platting within 1 year? What if we said that, and approved it that way?"

**MILLER** "Then when they go to get their building permit, I guess whoever is doing the plans review would check it and determine whether or not they are going to issue a permit. It certainly wouldn't require platting as a condition of the approval of their Conditional Use."

**WARREN** "We won't tell if you won't."

**GAROFALO** "But they could run into problems then with Central Inspection."

**HENTZEN** "Well, everybody runs into problems with Central Inspection."

(Laughter here)

**EDGINGTON** "I think that is an avenue that he would like to explore at this point, especially given the fact that the building itself is not on that unplatted portion, which is the part that would require the remodel permit."

**WARREN** "So in your opinion, they could probably go ahead and get a permit to remodel that building because where it is, it is platted."

**EDGINGTON** "We would like to explore that possibility. Absolutely."

**GAROFALO** "Are there any other questions of Kim? Is there anyone else here to speak in favor of this application? Is there anyone to speak in opposition? Seeing none, we will take it back to the Commission."

**OSBORNE-HOWES** "I know everyone is in a rush to approve this, but I sure do understand the need for the fence, and I am not convinced that there couldn't be some kind of arrangement made to talk about a low-cost method of platting that one part."

That would not stop the re-do and if there is any way to do that. It seems unprofessional to me to do that somehow. Maybe it would be less than what you said, \$3,000 to \$4,000 if you are just looking at one part, and maybe the City could work with them in some way there."

**KNEBEL** "Well, the other issue regarding platting is the issue of access control and right-of-way, along the entire site, not just the one 25 foot strip."

**OSBORNE-HOWES** "So it is a broader issue than just that one."

**KNEBEL** "It is all of that."

**WARREN** "But if we are platting for some purpose and there is something gained by the City, I understand it, but I don't think there is going to be gained here when they plat. I think we are going to encumber them with a heck of an obligation. I don't think anybody is going to get anything out of it. Maybe it looks better on paper."

**PLATT** "I think what is going to be gained is very important. We have to have the access control defined, and we have to have the right-of-way, it seems to me, even in the absence of anything else."

**MOTION:** Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood: The character of the neighborhood is that of mixed-use development consisting of single-family and multi-family residential development and various commercial uses. The zoning of adjacent properties to north, south, and east is "LC" Limited Commercial. The zoning of adjacent properties to the west is "B" Multi-Family. Property north of the site is developed with motels, offices, a tavern, restaurants, a used car lot, and single-family and multi-family residences. Property south of the site is developed a laundry mat, offices, retail businesses, a used car lot, and single-family residences. Property east of the site is developed with an office and a vehicle repair business. Property west of the site is developed with single-family and multi-family residences. The suitability of the subject property for the uses to which it has been restricted: The property is zoned "LC" Limited Commercial. The property is developed with a vacant convenience store and is apparently suitable for commercial uses to which it has been restricted. Extent to which removal of the restrictions will detrimentally affect nearby property: Detrimental affects should be minimized by the recommend conditions of approval which would limit signage, lighting, noise, and display area practices. Conformance of the requested change to adopted or recognized Plans/Policies: The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "Commercial" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. This site is located along Broadway, and the recommended conditions of approval have provisions which limit noise, lighting, and other adverse impacts. The Commercial Locational Guidelines also recommend that auto-related commercial uses should be guided to cluster in areas such as CBD fringe, segments of Kellogg, and other appropriate areas and streets where these uses may already exist or to locations where traffic patterns, surrounding land uses, and utilities can support these activities. This site is located along Broadway in an area where auto-related commercial uses already exist. Impact of the proposed development on community facilities: The use of this property should have limited impact on community facilities.) I move that we recommend to the governing body that the request be approved, subject to staff comments.

**PLATT** moved, **OSBORNE-HOWES** seconded the motion.

**GAROFALO** "Is there any discussion?"

**WARREN** "I think they offered that right-of-way, Commission Platt. They offered the right-of-way by separate document. Haven't you?"

**EDGINGTON** "Yes, we have offered to provide by separate instrument, contingent street dedication along with access control along the entire property and any required utility easements."

**JOHNSON** "Dale, if they agree to do the platting, I am sure that you guys would notify Central Inspection that it is the process and there is probably a Conditional Permit that could be issued so that they could start their remodel while that activity was going on."

**MILLER** "We would sure work on that."

**JOHNSON** "And then maybe by the time it was remodeled, the plat would be final and it would be all cleaned up."



**OSBORNE-HOWES** "I don't think it should delay anything. I want to be clear on that."

**JOHNSON** "I guess I am the same way. I would like to see if there wouldn't be a way to do it more economically, since it is kind of an unusual situation, especially if they are willing to do the additional right-of-way on the other lots and the access control all by separate instrument. I think maybe we could take this little messy thing and clean it up."

**MILLER** "We would try to work with them in any way that we legally can to make it less expensive and minimize the time."

**JOHNSON** "Because even with what we did today, chances are if they sold it, they would probably maybe run into a problem with the mortgage."

**SUBSTITUTE MOTION:** That the application be approved but not subject to a mandatory platting. That should be addressed when they go to try to get their building permit.

**HENTZEN** moved.

**WARREN** "What about the back fence?"

**MILLER** "What we have done on that in the past is if there was a fence across the way, as long as that fence is up they haven't been required, but if for some reason, that fence goes down, then they have to do it. We have done that on some occasions."

**WARREN** "I don't have a problem with that. Is that pretty much policy?"

**HENTZEN** "I could live with that as far as the motion is concerned. If that fence across the back disappears, then the owner of this property has to install a 6-foot fence.

**WARREN** seconded the motion.

**OSBORNE-HOWES** "Before we vote, I would just like to know if that fence covers the lot?"

**PLATT** "And is it 6 feet tall?"

**GAROFALO** "The present fence?"

**LOPEZ** "Yeah, the one that is up."

**OSBORNE-HOWES** "The one across the way."

**KNEBEL** "I don't recall that. We can look. There is one slide that shows some of the fence across the alley. There is another. It looks like there is about a 3 to 4 foot chain-link there."

**LOPEZ** "It doesn't cover the whole thing."

**PLATT** "No, it doesn't cover it all."

**LOPEZ** "There. You can see it there."

**GAROFALO** "Okay. Is there any other discussion?"

**VOTE ON THE SUBSTITUTE MOTION:** The motion carried with 5 votes in favor, (Warren, Garofalo, Hentzen, Warner, Johnson) and 3 in opposition (Osborne-Howes, Platt and Lopez)

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**11a. ZON2000-00003** - Seldin Development and Management Company (Owner/Applicant); Joe Self, Jr. Real Estate LLC (Contract Purchaser); Austin Miller PA c/o Kim Edgington (Agent) request zone change from "GO" General Office to "GC" General Commercial; and

**11b. CUP2000-00002; DP-38#1** - Seldin Development and Management Company (Owner/Applicant); Joe Self, Jr., request an amendment to the Lankin Heights Community Unit Plan to expand existing boundaries and create Parcel 3 for uses permitted in the "GC" General Commercial district, except those requiring a Conditional Use or residential uses.

**SCOTT KNEBEL**, Planning staff, pointed out land use and zoning; and showed slides of the general area. He reviewed the following staff report:

**BACKGROUND:** The applicant is requesting an amendment to the Lankin Heights CUP to expand the boundaries of the CUP and create a new parcel, Parcel 3, on 3.3 acres of vacant platted property located immediately south of the existing CUP. The

new Parcel 3 is proposed for a zone change from "GO" General Office to "GC" General Commercial to permit all uses permitted in the "GC" General Commercial district except those requiring a conditional use or residential uses. The applicant has indicated that the likely use for the property will be to expand the existing vehicle sales business (Joe Self) located immediately north of the proposed Parcel 3.

The surrounding area is predominately-developed commercial and office with some high-density residential development. North of the site is the vehicle sales business (Joe Self) on property zoned "GC" General Commercial. To the east is a vehicle repair and parts business (Pep Boys) on property zoned "LC" Limited Commercial and vacant property zoned "GO" General Office. South of the site is a medical office complex (formerly Charter Hospital) on property zoned "GO" General Office. To the west is a "big box" retailer (Circuit City) on property zoned "LC" Limited Commercial and an apartment complex (Eastgate Apartments) on property zoned "B" Multi-Family.

To limit the impact of the proposal on surrounding properties, planning staff recommends conditions of approval regarding signage, landscaping, lighting, noise, and display area practices. The property is currently platted, and replatting is not recommended by planning staff.

**CASE HISTORY:** This is platted as a part of the East Turnpike Entrance Second Addition, which was recorded January 20, 1975.

**ADJACENT ZONING AND LAND USE:**

NORTH: "GC" Outdoor Vehicle and Equipment Sales  
SOUTH: "GO" Medical Service  
EAST: "LC & GO" Vehicle Repair, Limited; Retail, General; Vacant  
WEST: "LC & B" Retail, General; Multi-Family

**PUBLIC SERVICES:** This site has access to Orme and Cypress, both two-lane local non-residential streets. Traffic volumes are not available for these streets. Municipal services are available to this site.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "Office" development. The Commercial Locational Guidelines recommend that auto-related commercial uses should be guided to cluster in areas such as CBD fringe, segments of Kellogg, and other appropriate areas and streets where these uses may already exist or to locations where traffic patterns, surrounding land uses, and utilities can support these activities.

**RECOMMENDATION:** Based upon information available prior to the public hearing, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. General Provision #3 shall be amended to provide 35-foot setbacks for Parcel 3 along Orme and Cypress.
11. General Provision #6 shall be amended to require an agreement providing for the maintenance of privately owned internal drives, parking areas, drainage improvements, etc. if multiple ownership occurs on Parcel 3.
12. A general provision shall be added to provide cross lot circulation and internal access for Parcel 3.
13. General Provision #12 shall be amended to require landscaping on Parcel 3 in addition to the Landscape Ordinance requirements consisting of street trees along Orme and Cypress, and 150 feet wide by 20 feet deep landscape buffer of densely planted evergreens in the southwest corner of Parcel 3 to screen the site from view from the multi-family development across Orme. No access point shall be permitted through the landscape buffer.
14. General Provision #14 shall be amended to require building exteriors to be predominantly earth-tone colors with vivid colors limited to incidental accent.
15. For Parcel 3, all parking, storage, and display areas shall be paved with concrete, asphalt, or asphaltic concrete. Parking barriers shall be installed along all perimeter boundaries adjacent to streets, except at driveway entrances or where fences are erected, to ensure that parked vehicles do not encroach onto public right-of-ways.
16. For Parcel 3, Only those signs permitted in the "LC" zoning district and the Lankin Heights CUP shall be permitted on this site. No temporary display signs are permitted on any parcel developed with auto sales, including the use of commercial flags, banners, portable signs, pennants, streamers, pinwheels, string lights, search lights, bunting and balloons, except that fixed banners, affixed to light poles and not exceeding 50 square feet of material per light pole, will be permitted. However, in addition to the above, affixed banners or special promotional items shall be limited to twelve (12) events per year not to exceed ninety (90) days per year for all events.
17. For Parcel 3, outdoor speakers and sound amplification systems shall not be permitted.
18. For Parcel 3, there shall be no elevated platforms for the display of vehicles.

19. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the Governing Body, and any substantial deviation of the plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
20. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
21. Prior to publishing the resolution or ordinance establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-38) includes special conditions for development on this property.
22. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 30 days after approval of this amendment by the Governing Body, or the request shall be considered denied and closed.

The staff's recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is predominately developed commercial and office with some high-density residential development. North of the site is the Joe Self vehicle sales business on property zoned "GC" General Commercial. To the east is a vehicle repair and parts business (Pep Boys) on property zoned "LC" Limited Commercial and vacant property zoned "GO" General Office. South of the site is medical office complex (formerly Charter Hospital) on property zoned "GO" General Office. To the west is a "big box" retailer (Circuit City) on property zoned "LC" Limited Commercial and an apartment complex (Eastgate Apartments) on property zoned "B" Multi-Family.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned "GO" General Office and could be developed for office use; however, the site has remained undeveloped for over 25 years since it was zoned "GO" General Office and demand for office space is relatively weak at the present time.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Most adjacent properties are for commercial and office use and should not experience detrimental affects should the site be developed with commercial uses. Any detrimental affects on nearby residential properties from lighting, noise, and other factors should be mitigated by the requirements of the Unified Zoning Code and the Landscape Ordinance and the recommended conditions of approval for the CUP.
4. Conformance of the requested change to adopted or recognized Plans/Policies: The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "Office" development. The Commercial Locational Guidelines recommend that auto-related commercial uses should be guided to cluster in areas such as CBD fringe, segments of Kellogg, and other appropriate areas and streets where these uses may already exist or to locations where traffic patterns, surrounding land uses, and utilities can support these activities.
5. Impact of the proposed development on community facilities: The use of this property should have limited impact on community facilities.

**KNEBEL** "The purpose of this amendment is to expand the Community Unit Plan to add a third parcel, which is immediately south of the existing Community Unit Plan and to change the zoning on that parcel from General Office to General Commercial. The proposed use is all uses permitted in the General Commercial district except those requiring a Conditional Use or residential uses. The applicant has indicated that the most likely use will be an expansion of the Joe Self auto sales business, which is located on the other two parcels of the Community Unit Plan. The surrounding area is developed primarily with commercial and office. There is some high density residential development in the area. There is also quite a bit of vacant office land to the east of the site. The Comprehensive Plan indicates that this area is appropriate for office development; however, this is an expansion of an existing business, which is typically supported by the Planning Commission. It is also an auto relative business, which is located along Kellogg. They are looking to expand that further to the rear of their property.

The Planning staff is recommending that this be approved, subject to some conditions which would clean up some of the items that are on the C.U.P. as proposed as well as to provide some conditions that we have typically recommended for auto sales type businesses. Those recommendations include 35 foot setbacks along Orme and Cypress, which is required by the Unified Zoning Code, having an agreement providing for the maintenance of any privately owned drives, parking areas or drainage improvements requiring cross-lot circulation agreement and internal access. Planning staff is looking for some landscaping on the new parcel that would screen the site from this multi-family by providing some evergreen tree planting similar to what is planted on the charter hospital property here on this corner of the development and then also street tree planting along Orme and Cypress. We are looking for building exteriors to be predominately earthtone and then the recommendations related to the auto sales being that having paved parking areas limiting the signage, limiting the outdoor sound amplification and elevated display. I am available for questions."

**GAROFALO** "Are there any questions of Scott?"

**WARNER** "Is there a particular reason why we are determining the earthtone colors?"

**KNEBEL** "That is just a standard provision in the Community Unit plans. The primary reason is that it would correspond with this development here (indicating)."

**GAROFALO** "Are there any other questions? Okay, we will hear from the applicant then."

**KIM EDGINGTON** "I am with Austin-Miller, here for the applicant. Again, generally we agree with staff comments with just a couple of exceptions. Regarding Item No. 4, the requirement for landscaping, given the fact that this property does not directly abut to any residential districts, we feel this might be a bit of an excessive requirement. We would be willing to do some additional landscaping in that corner, just maybe not quite at the level requested by staff."

Then the only other issue being with No. 8 regarding the sound amplification systems. The purpose this property is going to be used for is generally for storage of inventory vehicles with the necessity for some paging systems to be used occasionally. We would be more than willing to grant that any of those sound amplification systems be directed away from any residential areas and limitations on hours of operation or use. I would be happy to answer any questions."

**LOPEZ** "So you are stating now that you do have a specific use for that site?"

**EDGINGTON** "It is to be used for inventory storage."

**LOPEZ** "And your proposed use here is for all uses permitted under 'GC'?"

**EDGINGTON** "That is just for the future use of the property. Mr. Joe Self is not certain, nor can he be that he will ever, in the future, always need that much inventory storage based on changes in delivery and how he receives vehicles, so there may come a point where that is no longer needed for that use."

**WARREN** "On Item No. 4, the landscaping. Be a little bit more specific about what you propose there in lieu of what has been required."

**EDGINGTON** "We have no problem with the 150 foot width. We would just like to look at possibly 10 foot deep with the evergreen plantings. We agree to no access permitted through that point."

**OSBORNE-HOWES** "I have two questions. Are you saying that the multi-family development is not residential?"

**EDGINGTON** "Yes, it is, but the boundaries of our property meet with General Office and Limited Commercial. There is no direct abutting of residential."

**OSBORNE-HOWES** "So their view is..."

**EDGINGTON** "Well, and another reason for that is that portion of the apartment complex that the corners meet up with is purely parking lot area. That is the area in which they store their dumpsters, so we felt that 20 foot of landscaping is a little excessive to buffer from a parking lot."

**OSBORNE-HOWES** "So you are saying 20 feet instead of 20?"

**EDGINGTON** "Right."

**OSBORNE-HOWES** "Then my second question has to do with No. 8 about outdoor loudspeakers and sound amplification systems. I know you were all waiting for me to do this, but we have had many used and new car lots and storage areas that have agreed that because of technology they really don't need to use paging systems anymore. I can't think of any that we have approved in ever so long. So I guess I am not clear why Mr. Self doesn't know about the new technology."

**EDGINGTON** "Because at this point they don't have that in place and it is a purely economic limitation."

**OSBORNE-HOWES** "I will reserve my comments on that for later."

**GAROFALO** "Are there any other questions? Is there anyone else here to speak in support of this application? Is there any one here to speak in opposition? Seeing none, we will take it back to the Commission."

**MOTION:** Having considered the factors as contained in Policy statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood): The surrounding area is predominately developed commercial and office with some high-density residential development. North of the site is the Joe Self vehicle sales business on property zoned "GC" General Commercial. To the east is a vehicle repair and parts business (Pep Boys) on property zoned "LC" Limited Commercial and vacant property zoned "GO" General Office. South of the site is medical office complex (formerly Charter Hospital) on property zoned "GO" General Office. To the west is a "big box" retailer (Circuit City) on property zoned "LC" Limited Commercial and an apartment complex (Eastgate Apartments) on property zoned "B" Multi-Family. The suitability of the subject property for the uses to which it has been restricted: The property is zoned "GO"

General Office and could be developed for office use; however, the site has remained undeveloped for over 25 years since it was zoned "GO" General Office and demand for office space is relatively weak at the present time. Extent to which removal of the restrictions will detrimentally affect nearby property: Most adjacent properties are for commercial and office use and should not experience detrimental affects should the site be developed with commercial uses. Any detrimental affects on nearby residential properties from lighting, noise, and other factors should be mitigated by the requirements of the Unified Zoning Code and the Landscape Ordinance and the recommended conditions of approval for the CUP. Conformance of the requested change to adopted or recognized Plans/Policies: The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "Office" development. The Commercial Locational Guidelines recommend that auto-related commercial uses should be guided to cluster in areas such as CBD fringe, segments of Kellogg, and other appropriate areas and streets where these uses may already exist or to locations where traffic patterns, surrounding land uses, and utilities can support these activities. Impact of the proposed development on community facilities: The use of this property should have limited impact on community facilities.) I move that we recommend to the governing body that the request be approved.

**LOPEZ** moved, **PLATT** seconded the motion.

**WARREN** "I think I am going to offer a substitute motion."

**SUBSTITUTE MOTION:** I move that we recommend to the governing body that the request be approved, subject to the following:

1. General Provision #3 shall be amended to provide 35-foot setbacks for Parcel 3 along Orme and Cypress.
2. General Provision #6 shall be amended to require an agreement providing for the maintenance of privately owned internal drives, parking areas, drainage improvements, etc. if multiple ownership occurs on Parcel 3.
3. A general provision shall be added to provide cross lot circulation and internal access for Parcel 3.
4. General Provision #12 shall be amended to require landscaping on Parcel 3 in addition to the Landscape Ordinance requirements consisting of street trees along Orme and Cypress, and 150 feet wide by 20 feet deep landscape buffer of densely planted evergreens in the southwest corner of Parcel 3 to screen the site from view from the multi-family development across Orme. No access point shall be permitted through the landscape buffer.
5. General Provision #14 shall be amended to require building exteriors to be predominantly earth-tone colors with vivid colors limited to incidental accent.
6. For Parcel 3, all parking, storage, and display areas shall be paved with concrete, asphalt, or asphaltic concrete. Parking barriers shall be installed along all perimeter boundaries adjacent to streets, except at driveway entrances or where fences are erected, to ensure that parked vehicles do not encroach onto public right-of-ways.
7. For Parcel 3, Only those signs permitted in the "LC" zoning district and the Lankin Heights CUP shall be permitted on this site. No temporary display signs are permitted on any parcel developed with auto sales, including the use of commercial flags, banners, portable signs, pennants, streamers, pinwheels, string lights, search lights, bunting and balloons, except that fixed banners, affixed to light poles and not exceeding 50 square feet of material per light pole, will be permitted. However, in addition to the above, affixed banners or special promotional items shall be limited to twelve (12) events per year not to exceed ninety (90) days per year for all events.
8. For Parcel 3, outdoor speakers and sound amplification systems shall not be permitted.
9. For Parcel 3, there shall be no elevated platforms for the display of vehicles.
10. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the Governing Body, and any substantial deviation of the plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
11. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
12. Prior to publishing the resolution or ordinance establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-38) includes special conditions for development on this property.

13. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 30 days after approval of this amendment by the Governing Body, or the request shall be considered denied and closed.

**WARREN** moved.

**JOHNSON** "Dale, how is that 20 foot established. Can 10 foot work?"

**MILLER** "On the CUPs it is done on a case-by-case basis, depending on what is going on around there. In the Landscape Ordinance, there is a minimum on the buffers that they have to be within 15 feet of the property line. Scott may be able to elaborate more on whether there was some special terms."

**KNEBEL** "The reason I came up with 20 foot was that it was the apparent depth of the landscape buffer on the adjoining property."

**JOHNSON** "What I am trying to think of is that there have been a number of cases in here just west of there on some Davis Moore property that was in residential and we did all kinds of different things. This is an existing business again and I am just curious if we had a 20-foot requirement or a 10 foot or a different size fence or whatever."

**MILLER** "I can't remember on the Davis Moore one. I don't think Scott was here doing those at the time."

**JOHNSON** "Would staff have a problem with 10 foot?"

**MILLER** "We could probably live with that. Well, Donna is telling me that..."

**GOLTRY** (From the audience) "What is the depth of the lot? Because actually they are going to have to be doing, as far as doing a landscape plan, they will have to be doing a landscape streetyard, and the depth of the lot determines how wide it is. Basically, you end up with a 20-foot strip, which is maybe where Scott came up with that. It is across the street from residential, right?"

**MILLER** "General Office."

**GOLTRY** "Well, if you were doing across the street from residential zoning, it would be a ??unable to hear landscape area."

**KNEBEL** "It is catty cornered, basically. If you look at the picture sheet, it is the lot below where it says Orme Street. It is the multi-family."

**JOHNSON** seconded the motion.

**VOTE ON THE SUBSTITUTE MOTION:** The motion carried with 7 votes in favor. Platt opposed.

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12a. **Case No. ZON2000-00004; CUP2000-00003; DP253** - Ritchie Investment Company, c/o Rob Ramseyer, and Ronald G. and Renee D. Kaylor (owners); Baughman Company c/o Phil Meyer (agent) request zone change from "SF-20" Single-Family Residential to "LC" Limited Commercial; and

12b. **Case No. CUP 2000-00003** - Ritchie Investment Company, c/o Rob Ramseyer, and Ronald G. and Renee D. Kaylor (owners); Baughman Company c/o Phil Meyer (agent) request zone change from "SF-20" Single-Family Residential to "LC" Limited Commercial on property described as:

That part of the S 1/2 of the SE 1/4 of Sec.28, Twp. 26-S, R-1-W of the 6<sup>th</sup> P.M., Sedgwick County, Kansas described as follows: Commencing at the SE corner of said SE 1/4, thence NOO°09'29"W along the east line of said SE 1/4, 913.53 feet for a point of beginning; thence N89°35'38"W, 1312.53 feet; thence NOO°09'29"W parallel with the east line of said SE 1/4, 393.65 feet to a point on the north line of said S 1/2; thence N89°58'42"E along the north line of said S 1/2, 1312.47 feet to the NE corner of said S 1/2' thence SOO°09'29"E along the east line of said SE 1/4, 403.43 feet to the point of beginning, subject to road rights-of-way of record. Generally located west of Ridge Road, approximately one-fourth mile north of 37<sup>th</sup> Street North.

**DONNA GOLTRY**, Planning staff, pointed out land use and zoning; and showed slides of the general area. She reviewed the following staff report:

The applicant is requesting the creation of a Community Unit Plan for 11.45 acres near the northwest corner of 37<sup>th</sup> Street North and Ridge Road. The proposed C.U.P. is located directly north of DP-250 Starwest C.U.P. which was approved by MAPC on December 16, 1999.

The proposed C.U.P. has three parcels. Parcel 1 is the main tract and would be 9.62 acres in size. It is situated behind Parcels 2, and 3, which are just under an acre in size each (0.91 acre), and are located along Ridge Road.

Parcel 1 has a narrow extension that connects the parcel to Ridge Road and provides the major access to the property. Another opening is proposed for Parcel 2 at its northern boundary. Parcel 3 has complete access control along Ridge Road, but has three points of access. It has joint access with Parcel 1, a potential for cross-lot circulation with Parcel 2 of DP-250 Starwest C.U.P. on the south, and cross-lot circulation along its western boundary. This cross-lot circulation also connects with the western boundary of Parcel 2 in Starwest C.U.P.

The applicant proposes each parcel to permit all uses in the "LC" zoning district except for adult entertainment establishments, group homes, group residential, halfway houses, correctional placement residences, private clubs, taverns, and drinking establishments. Restaurants that serve liquor would be permitted as long as food was the primary service of the establishment. All uses that require "Conditional Use" permits in the "LC" districts would be permitted only by amending the C.U.P.

Each parcel would be limited to 30 percent maximum building coverage and 35 percent floor area ratio. All buildings would be limited to 35 feet in height. The setback along Ridge is 35 feet. A 60-foot setback is shown for Parcel 1 on its northern and eastern boundary. No setback is shown between Parcel 1 of Kaylor C.U.P. and Parcel 1 of Starwest C.U.P. A screening wall six feet in height constructed of masonry would be provided along the northern property line where the adjacent property is zoned for residential use. Landscaping would include a landscape buffer along the northern and western property lines, and landscape street yard along Ridge Road.

Signage restrictions would prohibit flashing signs (except time and temperature and public message displays), rotating or moving signs, signs with moving lights or that create illusions of movement; portable signs and off-site signs, signs on the rear of buildings, and window display signs in excess of 25 percent of window area.

Each parcel would be permitted one monument sign to be spaced a minimum of 150 feet apart and to be a maximum height of 30 feet for Parcel 1 and 20 feet for the Parcels 2 and 3. A suggested definition of a monument sign, until the Sign Code is amended, is that it be a detached sign where the width of the base of the sign is at least ½ of the width of the widest part of the sign face, or where the base consists of two or more supports where the sign face is not more than two feet above the average grade of the ground. The materials of the base shall be one of the following: masonry, wood, anodized metal, stone or concrete. A monument sign shall harmonize with the architecture of the structure or complex it serves and be constructed of materials consistent with the same.

The applicant proposes all parcels share a uniform architectural character, color, texture, and the same predominant exterior building material. The applicant proposes similar or consistent lighting elements, with the height of light poles to be 24 feet. Extensive use of back lit canopies and neon or fluorescent tube lighting on buildings would not be permitted.

The application area is currently developed with a residence on the eastern half of the tract and with agricultural land on the western half. The application area is only one-fourth mile south of the interchange of Ridge Road and K-96 and is located in an area that is undergoing development.

The tract to the southeast of 37<sup>th</sup> and Ridge, DP-237 Ridgeport North C.U.P. is being developed with medical offices and is the proposed site for a new hospital facility for Via Christi. The property immediately to the south of the application area is undeveloped, but was approved as DP-250 Starwest C.U.P. for "LC" uses. The property south of 37<sup>th</sup> was approved as DP-242 Ridge Centre C.U.P. for "LC" Limited Commercial and "NR" Neighborhood Retail. DP-245 Catamaran Cove C.U.P. is immediately west of Ridge Centre C.U.P. This is the application for "B" Multi-Family deferred from the MAPC meeting of March 16, 2000. It is to be heard on March 30<sup>th</sup>.

North of the site, there are two remaining residences, and a third residence approved, but not yet platted for a "NR" Neighborhood Retail greenhouse. Another application has been filed, but deferred for "LI" Limited Industrial and "LC" uses closer to K-96. To the east, a small tract was recently approved for a commercial communication tower and the remainder of the property is agricultural.

Virtually all of Parcel 1 is in the 100-year floodplain. Parcels 2 and 3 are in the 500-year floodplain. As with other proposed developments in the area, the Big Slough North is a major factor that will impact the drainage plan during the platting process and will affect the use of the properties. The channel of the Big Slough is located west of the application area, separated by an existing lake next to the Big Slough. The area to the west of the application area is owned by the same property owner as Kaylor C.U.P., and will be used for drainage for the C.U.P. The applicant intends to provide an off-site drainage agreement for this area, but has indicated a willingness to plat it as part of the residential area west of the Big Slough. A homeowners association would maintain the lake.

**CASE HISTORY:** The application area is unplatted.

**ADJACENT ZONING AND LAND USE:**

NORTH:	"SF-20"	Large-lot residential, agricultural, greenhouse
SOUTH:	"LC"; "SF-20"	Vacant
EAST:	"SF-20";	Agricultural
WEST:	"SF-20"	Agricultural

**PUBLIC SERVICES:** The property is located along Ridge Road. Ridge was recently reconstructed to four-lane standards. 37<sup>th</sup> Street North is still an unpaved road. 37<sup>th</sup> will be accessed via an internal circulation link connecting the Starwest C.U.P. with

the Kaylor C.U.P., and potentially to the property to the north and northwest. Traffic volumes along Ridge Road in 1997 were 7,717 ADTs (average daily traffic). This was projected to increase to 15,275 ADTs in the 2020 Transportation Plan, but this projection did not anticipate the volume of development occurring in the vicinity (Via Christi, Ridge Centre, Starwest, Catamaran Cove, etc). If fully developed with 174,611 square feet of shopping center type of uses, this project could be projected to increase traffic on Ridge Road both to the north and south by as much as 7,500 vehicle trips per day.

Recommended traffic improvements include extending accel/decel lanes into the property and providing a left-turn lane on Ridge.

In terms of road alignment, the development of this property is viewed as a part of a larger urbanizing area extending from K-96 southward to 37<sup>th</sup> and from Ridge westward to the Big Slough North. In that context, the development of a north-south circulator was required as part of Starwest C.U.P. and also is provided in this C.U.P. (General Provision Number 26).

The proposed spacing of the access drives is too close, with three openings within 403 feet. Further, the northern property line of this C.U.P. coincides with the quarter-section line and would be an ideal location for a street to ensure smooth traffic flow for all property between K-96 and 37<sup>th</sup>, connecting with the north-south circulator, and for the best location for a traffic signal between K-96 and 37<sup>th</sup> Street North. It is recommended that the drive between Parcels 2 and 3 be shifted to the north, and that it be a public street.

Water and sewer services are not currently available to the property. The applicant will need to guarantee extensions for water and sewer services.

#### **CONFORMANCE TO PLANS/POLICIES:**

The Land Use Guide of the 1993 Comprehensive Plan identifies this area for "agricultural" use. However, the continued northern expansion of urban development and recent widening of Ridge Road, the proximity of the K-96 freeway interchange, and the ultimate plan to extend sewer service to that freeway suggests that this area is becoming ripe for urban development. The amended Comprehensive Plan recently adopted by MAPC shows the property as commercial.

The commercial locational guidelines recommend that commercial uses be located in "planned centers" with site design features which limit noise, lighting, and other activities so as not to adversely impact surrounding residential areas. Also, the planned centers should be oriented to minimize traffic impact due to its location in relation to major traffic routes and the use of shared access points. The development of out parcels should be integrated in relation to planned retail centers through shared internal vehicular and pedestrian circulation, combined signage, similar landscaping and building materials, and combined ingress/egress. The proposed C.U.P. adheres to these recommended locational guidelines.

#### **RECOMMENDATION:**

Ideally, development occurring in this area should be coordinated to provide a smooth traffic circulation. The area could be compared to the stretch of Rock Road between K-96 and 29<sup>th</sup> Street North, where concentrated commercial development many points of access have led to congestion and traffic hazards. This stretch of Ridge is the same length, one-half mile, and in the same relative position, immediately south of K-96. If all the potential developments, Via Christi, Starwest, Ridge Centre, Catamaran Cove, plus additional residential development in the area materialize, it is possible to imagine a replication of traffic conditions on Rock Road.

However, there is an opportunity to avoid problems that have beset Rock Road by refining the traffic circulation pattern for the area, with an eye to limiting access points and placing the points of signalization at the most beneficial location. In terms of circulation, this would include a north-south collector along the rear of the of the tracts connecting with east-west drives accessing Ridge at strategic locations. A cross-circulation drive is being provided already along the western portion of Starwest, and is proposed to provide access to the land within these properties, as well as to the north and west. It could be extended northward across the properties to the north as a public road, eventually connecting with another public road in the proposed development immediately south of K-96. A second north-south cross-circulation drive, to enhance traffic flow is being provided along the western edge of the outparcels along Ridge in both Starwest and Kaylor C.U.P.s. This internal drive will enhance circulation within the C.U.P.s.

An east-west access drive is needed to connect Parcel 1 of the Kaylor C.U.P. to Ridge Road. Its proposed location is between the Parcels 2 and 3, but this leads to three points of access on Ridge within 403 feet. These points are the entrance drive for Parcel 1, the access opening on the northern boundary of the Kaylor C.U.P., and the access opening on the southern property line in the Starwest C.U.P. If the entrance drive were moved to the northern property line, it would have two advantages. It would provide access to the property to the north on a shared drive and it could eliminate the need for an additional entrance onto Ridge Road for the property to the north. Similarly, by aligning another entrance along the southern property line of the proposed development near K-96, access could be shared between the development and the neighboring property to the south. This would complete a circulation pattern for the quarter-section and avoid extra drives that would occur in the absence of this coordination.

The best scenario would be to have the main drives be public streets. However, private cross-circulation access was allowed as part of the Starwest C.U.P. for the western cross-circulation access. Perhaps this concern could be reconsidered. Regardless, it is recommended that the main entrance to Kaylor C.U.P. be shifted to the north and be dedicated for the length of the property by petition as a contingent right-of-way for future construction of a street, with the potential for this to be the point of signalization between K-96 and 37<sup>th</sup> Street. A temporary three-lane entrance road could be provided within the



opening until the property to the north comes in for development, thus giving the applicant the immediate ability to develop this property.

With these modifications to the traffic circulation, recognizing the ongoing trends in the vicinity of Ridge and 37<sup>th</sup> for commercial, office, medical and residential development, and viewing the Kaylor C.U.P. as an extension of the commercial area already approved for the northwest corner of Ridge and 37<sup>th</sup> (Starwest), plus the information available prior to the public hearing, Staff feels that this area offers a potential site for future commercial development and recommends the request be APPROVED subject to platting within one year and subject to the following conditions:

- A. APPROVE the zone change (ZON2000-00004) to "LC" Limited Commercial, subject to platting of the entire property within one year.
- B. APPROVE the Community Unit Plan (DP-253), subject to the following conditions:
  1. The following transportation improvements shall be provided:
    - A. A continuous right-turn decel and a left-turn storage lane shall be provided along Ridge Road.
    - B. The joint opening on Parcel 2 of DP-250 Starwest C.U.P. shall be shared with Parcel 3 of DP-253 Kaylor C. U.P.
    - C. A contingent street dedication of 40 feet in width shall be provided along the entire northern property line. A temporary three-lane drive may be located herein to serve development of the property and as cross-circulation access until which time the dedication is obtained from the adjoining property for the public street.
  2. No development shall occur until such time as municipal water and sewer services are provided to the site.
  3. General Provision Number 13 shall be deleted with the relocation of the drive along the northern property line.
  4. General Provision Number 18 shall delete the reference to "half-way houses".
  5. General Provision Number 26 shall be revised to state:

Cross-circulation access shall be provided in at least two locations, generally located on the rear of Parcels 2 and 3, and near the western edge of Parcel 1. These locations shall be reviewed by the MAPD to ensure smooth vehicular circulation: from 37<sup>th</sup> Street, through the commercial C.U.P. to the south and this commercial C.U.P., and continuing through all further development located north and west of the C.U.P.
  6. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
  7. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
  8. All property included within this C.U.P. and zone case shall be platted within one year after approval of this C.U.P. by the Governing Body, or the cases shall be considered denied and closed. The resolution establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds.
  9. Prior to publishing the resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-253) includes special conditions for development on this property.
  10. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 30 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of this area is changing. Office/medical uses are being developed to the southeast, and limited commercial, office, neighborhood retail uses are approved for development to the south. There is an application for multi-family development to the south. The tract to the west is separated from this site by the Big Slough North and remains agricultural in use. The tract to north is large lot suburban, agricultural, and a neighborhood retail use, but could be anticipated to be developed more intensively northward to K-96, as could the land east of Ridge between 37<sup>th</sup> and K-96 which is still in agricultural use and approved for a commercial communication tower.
2. The suitability of the subject property for the uses to which it has been restricted: The property could remain agricultural, but would more likely be developed with urban-type uses. The location along a major arterial near a

freeway interchange and the presence of office/commercial activity nearby makes low density "SF-20" residential development seem out of character and below desirable density levels for orderly urban expansion.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of this C.U.P. will increase the likelihood that other properties to north, and east seek to be developed more intensively. Approval probably would not influence the property to the west as significantly due to its separation by a pond and the Big Slough North.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The 1993 Land Use Guide of the Comprehensive Plan identifies this area as agricultural, however, changing factors have pointed to the need to reconsider that designation, as discussed earlier. The Comprehensive Plan recently adopted by MAPC shows it as "commercial".
5. Impact of the proposed development on community facilities: The site will have a significant impact on community facilities. However, through the required guarantees for street and other infrastructure improvements and provision of a circulation network, this impact should be adequately handled.

**GOLTRY** "The application for the Kaylor Community Unit Plan is directly north and abutting a CUP that has been approved to the south, Starwest CUP. That would be DP-250. So, if you look at the requirements that have been put in for this CUP, they closely replicate that of Starwest, which is directly to the south. So I won't go through all of the details on the setbacks, the floor area ratios, etc. They are in the staff report.

The application area is currently developed with a residence on site on the front half, and then on the back half it is kind of open and agricultural. Behind it is, again, the Big Slew, so we have a lot of flood plain area. In fact, all of the CUP basically lies within the floodplain area. The regulatory floodway, however, is to the rear of the parcel.

North of the site we have two existing residences and a third residence that also has an approval for a greenhouse. Then we are up to another tract that had an application filed but it has not come forth to MAPC for the CUP on this property. Then we are all the way to K-96. To the southeast, no development plans have been brought in for this area yet. To the northeast, I believe you approved a cell tower site in this area about a month ago. In terms of conformance with the old Comprehensive Plan, it was shown as agricultural, but now we can say that with the revised Comprehensive Plan, you have shown it on the amended Comprehensive Plan to be commercial.

I want to go into a little more depth on recommendations. Ideally, when we think about development occurring in this area, we would like to coordinate it to have a smooth traffic circulation. If we step back a little bit, we have had all of these applications come in on Ridge Road, and we have half a mile segment from K-96 to 37<sup>th</sup> Street, which could be sizing up to be half a mile segment, kind of similar to Rock Road. Therefore, we are concerned that we ensure that we do have a smooth flow of traffic in the area, that we make sure that our access openings are well planned so they are going to serve the needs of this tract plus tracts that are adjoining to try to keep a traffic situation from developing as it did along Rock Road.

We have Jamsheed Mehta and he can speak more eloquently than I on all of the transportation issues that are involved, so if you have questions on the transportation, I will defer to him on those.

As the plat is designed, and we have been talking with the applicant about this, they are showing one major opening in the middle of the parcel. What we have requested in the staff report instead is there be one major opening at the northern boundary. That would be so that it could be strategically placed so it could be accessed by the property to the north, were it to come in for development. That would be eliminating a potential point of access on Ridge Road. It also has the unique ability to provide a potential for future signalization at the quarter mile section should that become needed, and it may well be if you look at the traffic numbers in the traffic section here. That would be the logical place to signalize, at the quarter section point. Therefore that is why we have been talking with the applicant about that. I am sure they will want to speak to that when they are talking with you today. Therefore we would then shift Parcel 2 down to be adjoining to Parcel 3. There has been some discussion as to Parcel 3 and its access, we are showing that it has joint access with Parcel 2 from Starwest. That would be the parcel to the south. We were discussing that earlier today also, so maybe we can talk about that issue.

I want to get into our staff recommendations. Staff has recommended approval of this CUP subject to platting within 1 year and subject to the following conditions. Please direct your attention to Condition B 1. B. where I have made a mistake. I wanted to make sure you saw it. It should have stopped, it said 'the joint opening on Parcel 2 of DP-50 shall be shared with Parcel 3 of DP-253'. Then the further line that talks about right-in, right-out only is not supposed to be there. So please strike from 'DP-253' on, and eliminate that."

**OSBORNE-HOWES** "I just want to ask a question. I have seen no signs on this property. I don't know if someone took them off or what."

**GOLTRY** "I thought they were posted. I guess I didn't catch them in my pictures."

**OSBORNE-HOWES** "I have driven by and have not ever seen any signs. That was just a comment."

**GOLTRY** "I'm sorry, I can't respond. I think I saw some signs there a long time ago, but whether they have been there recently or not, I can't speak to either."

**OSBORNE-HOWES** "Well, not in the last week."

**GOLTRY** "Maybe Phil can check the records on that."

**JAMSHEED MEHTA**, Planning staff "Briefly we want to mention a little bit about the transportation aspects. You are about miles away from this aerial, but just to give you a prospective of the whole picture of K-96 intersecting with Ridge Road to the north. Right here is the half-mile, 37<sup>th</sup> Street, which cuts across.

Donna was absolutely right when she equates this to what is essentially south of K-96 on Rock Road. The density of commercial is getting to be what is already on Rock Road. We don't expect it to grow any more on Rock Road, but the point is that this is heading in that direction. The northern boundary of this application right over here is the quarter mile, so it would be a quarter mile south of K-96. If there were an opportunity, if there were a need to do signalization anywhere in this half mile, this would be the location. I am bringing this up only because the situation at Rock Road has come to the point where yes, you need a signal and in order to put in a signal; it is not just the cost of putting in a signal any more, it is acquiring right-of-way, it is acquiring openings that are there, closing down certain openings that are there for existing businesses on Rock Road. We are doing it in a retro-fit situation. Here is the first opportunity we have on a situation that could get as bad, and if it is going to be a signalized location, then let's plan the lots in such a way that you can channelize traffic.

It is not only traffic that will be entering and exiting this site, it will be traffic that will be using both the property to the south, Starwest, and all of the other properties to the north, all the way to K-96. The way we look at it, traffic enters safely through a right-turn, and eventually has to make a left-turn to get out. If it enters to a left-turn, it has to make a right-turn to get out. Either way, there is a left turn involved. If you can't get across the through traffic to make those left turns, then comes the occasion to build or install a traffic signal, which will allow for a green arrow for those left turns.

Given the fact that there are so many approved driveways already, our idea is to channelize a few of those, especially in the center and put a signal so that you can channelize all left-turn kind of traffic over here (indicating). We have the option of using the other drive-ways, but for safety reasons, they can do it over here. It is not warranted right now, but in the future, if need be, that will be a signalized location.

Our first recommendation is what Donna already expressed, and that is contingent dedication along the north property line, going a ways back westerly, which will be able to connect to the north/south circulator, the access easement, the cross-lot access on the west side, and also one closer to Ridge Road behind the out parcels over there. They could all be funneled out at this location to make those left turns.

We also talked with the applicant recently about options, if in fact, contingent dedication was something that they were not very comfortable with, but the condition was still standing from the staff recommendations standpoint is to eliminate this location as a driveway and channelize everything to one of these. As far as Parcel 3 is concerned, there is already the shared access drive with Starwest. Are there any questions?"

**GAROFALO** "Are there any questions of Jamsheed? I think that clears it up."

**WARREN** "Jamsheed, in other communities and other cities where we see this coming on, what I have seen is they go, instead of to a four lane, is to a six lane and then they start providing these 'U' turns. Then you can get out because of a right turn out, go where you want to and go to the next intersection and make a 'U' turn. Can we not get enough land to go to a six lane?"

**MEHTA** "That would be radical in this community, but it is a very good idea. You take a lot more land in the platting process than you are traditionally giving. In fact, just this afternoon I am hearing reservations for going beyond the 30 foot that they already have."

**WARREN** "What kind of a right-of-way do we have out there now?"

**MEHTA** "Enough to have the four lane that is build there with the ditches, but to have 6 lanes and allow for a U-turn facility, this is probably too short of a section to do that."

**WARREN** "Do we have 100 foot now?"

**MEHTA** "I would want to guess at least that much if not more."

**WARREN** "Even if you had it at those intersections where you could get and make a U-turn, I don't think Rock Road is that bad except for the cross-traffic. If you could eliminate the cross-traffic when you are getting out, trying to turn left, Rock Road could handle it, I think, quite well."

**MEHTA** "The total cross-section could well be six lanes, but it is four right now. By the time you add the accel/decel lanes on both sides, you have a six lane. But then you need a center turn lane and that is, in fact, seven. But either way, you would need to signalize it, otherwise, how is it going to cut across? Now, the U-turn is one thing, but you still need to have a gap in traffic to be able to do that. And you would need a gap in traffic to make a left-turn."

**WARREN** "Where I saw the U-turns was at intersections."

**MEHTA** "An intersection being signalized."

**WARREN** "Sure, but I think that is what you are going to have to have if you are going to duplicate Rock Road."

**PLATT** "We don't want to duplicate Rock Road."

**WARREN** "You are going to have to somewhere, George. People want to shop."

**GAROFALO** "Are there any other questions of Jamsheed? Okay, let's hear from the applicant."

**PHIL MEYER** "I am with the Baughman Company, agent for the applicant. With me here today is Rob Ramseyer who is representing the applicant. He will be glad to answer any specific questions you may have. I am going to be as brief as I can. Feel free to ask questions if I am skipping over too much."

In essence, really, the only issue I think we have and we want to discuss is access control. I think we are in agreement with the rest of the staff comments, so I am just going to skip over the rest and go to the access control. The applicant is the owner of Starwest CUP, which you have previously approved. The key thing to remember is that Starwest is under contract and it was under contract when we brought it in here for zoning. So there are certain implications that we can't tie the two together because Starwest is under contract, and this Kaylor Community Unit Plan is not.

We think we can work out the joint access between this north Lot 2 and our Parcel 3. I can't guarantee you of that because it is under contract and we have to go back and work that into the existing contract, but we think we can do that. Staff very much would like a contingent dedication along the north line. We are opposed to that. There is no other way, really, to put it. Within the CUP, we allowed access to the north at two locations, back here (indicating) and here. That is the same agreement we made with Starwest, that we will allow the commercial properties to have access between them. Do you remember on Starwest we talked about a loop road back here, up against the floodway, which we couldn't do at that time. So we agreed to have the access between the parcels. We will do the same up here.

Staff is talking about doing a light mid-mile. A traffic signal. That surprised me a little bit when they first said it. The more we talked about it, the more I can think of other locations where they have done that or are planning on doing that. As a compromise to try to work this thing out, what we offered was, and they wanted a major entrance along our north property line, private or public. We are willing to do one privately. We will move our entrance here up to the north and make it a private major entrance, but what we want to propose is that we provide half of it. We have been saying that 48 foot is a major entrance. That is typically the width of a major entrance. They can go anywhere from 44 to 55 or 60 feet. Forty-eight foot major entrance will give you a 20-foot lane in, a 24-lane out, which is two drives out and a four-foot median. I

We would put half of that, a 24 foot on our property, and then when the property to the north of us develops, they can provide the other half of the major entrance. So we are sharing that together. That would allow the opportunity for a future traffic signal to be put in there if traffic warrants it. If that happens, we would move Parcel 2 down to the north line of Parcel 3 and we are still requesting that we share a 30-foot drive opening between Parcel 2 and Parcel 3. I think that is where staff is saying that that is one too many openings. We should only have one up here, which would be a major and one down here, with Starwest.

As I said previously, I think I can get the one with Starwest, but I can't guarantee it. If this is a major entrance up here in the future whether we provide all of it or part of it, we are going to back traffic up at the signal wanting to turn left and head north. So we would like this drive (indicating) between the two parcels so that when traffic is backed up, if you pulled into that major entrance, you would actually have to drive here to Parcel 1, turn around and come back to Parcel 2. If we can get this curb cut along Ridge Road, then you would be able to pull right into Parcel 2 or 3. That is why we are asking for that."

**WARREN** "Would the center one be a right-turn only?"

**MEYER** "It could be. We are not going to oppose that. I don't really want to start the standard at mid-mile of doing a right-turn in, right-turn outs. We are doing them now at intersections, but if that is the compromise, that is fine."

So the key issues are: We don't want the contingent dedication. We are okay with moving a major entrance to the north of this thing. We would like to share that with the future property owner to the north. So we will give 24 feet now, he will give 24 feet when he develops so that it is not all on our property. If that doesn't develop commercially to the north, we won't need the major entrance. It is all contingent upon all of this stuff being commercial. We will need the major entrance and it signalized. So we think that is a fair compromise. We would like to keep this drive between Parcels 2 and 3.

The only other issue is that if we do this major entrance up here, is the screening wall still required along the north line? Or, if we do the contingent street dedication, which we are opposed to, would we still need that screening wall along the north line? So, Item No. 3 in the staff comments, I think can be removed either way, or at least screening wall contingent as long as the property to the north is residential."

**GAROFALO** "Phil, Jamsheed mentioned, and so did Donna, is that still going to be a cross-lot access, just west of those properties?"

**MEYER** "From Starwest, right here, we have supplied cross-lot here (indicating) and here. And with this proposal, we are supplying it here and up here. So we are supplying internal cross-lot and we are allowing access north and south across the properties."

**GAROFALO** "Okay, but there would be one to run north and south there, to the west of those two, Parcels 1 and 2?"

**MEYER** "Yes, sir, right here and right here both (indicating). Is that answering your question?"

**GAROFALO** "Well, yeah. So there would be access from the south or from the north after going in that northern access drive to come on down and get into those two parcels."

**MEYER** "Here?"

**GAROFALO** "Yeah. Without that center access. If somebody came in on north end there, they could drop down that cross-lot there."

**MEYER** "Right here? Yeah. We are saying that if this thing really queues up as heavy as we are talking with the signal here, somebody is going to come in, come back into here, and then come back around and we would just like for them to be able to just be able to pull right into the front of our site."

**WARREN** "Phil, this may be hypothetical, and it may be way too late in the game, but as a developer, you are developing land that potentially is going to be, we will just say for lack of a better term, a Rock Road. If you could give another 30 or 40 foot off of the front and move everything back accordingly and could get good traffic, wouldn't it be worth it to the developer, maybe to consider that? If he could get everybody to do it, and we could go in there with a 6 lane or 7 lane, or whatever it takes?"

**MEYER** "We want good traffic. We have dedicated 60 foot of half-street right-of-way, which will get you 6 or 7 lanes of pavement. The right-of-way is there to do it."

**WARREN** "So you have 120 foot potentially..."

**MEYER** "You will have 120 foot when it is all done."

**WARREN** "And you are saying you could get 6 or 7 lanes in 120 foot?"

**MEYER** "Yes."

**WARREN** "Okay."

**MEYER** "I think the right-of-way dedication is there. I think we have worked pretty well at doing joint openings everywhere. We are hampered because this is a narrow parcel, and we know that, but we would still like to have a joint opening between these parcels because they are going to be separate owners. We are willing to share the drive, but we feel that we need the drive for the access."

**WARREN** "How is that 120-foot right-of-way you are going to have here compare with Rock Road? Do you have any idea?"

**MEYER** "It would be equal."

**WARREN** "Is that what Rock Road has, 120 foot?"

**MEYER** "Yeah."

**GAROFALO** "Okay, are there any other questions of Phil? Okay, let's see if there is anyone else here to speak in support of this application? Okay, then we will take it back to the Commission."

**OSBORNE-HOWES** "Can I hear from staff after they have heard these comments? Can I hear their response? Just a brief one because I am going to have to go pretty soon."

**MEHTA** "I think what I heard was the applicant is receptive to a drive-way but not to contingent dedication to the north. The applicant is also asking for a driveway opening between Parcels 2 and 3, so there won't be these two lines, it will just be one common line. Parcel 2 scoots down, but they still have a driveway at this location. We have a problem with that, considering that this is the site for the future signalized location, and you are talking about, after doing the 20-foot south of here, you are talking about 160 feet. In fact, take half of that distance away, it is more like 140 or 145 feet, so you would have (indicating) a driveway, a driveway, a driveway, a driveway, a driveway. It is back to the same thing. Our whole position here is 'let's signalize it and let's keep the area near the signal operational for that purpose'. So fine if it is not a contingent dedication. If it is a major driveway shared with the property, which is yet to come in for any zoning, platting or any kind of land use change on the north side. But at this location, our position would be that it is way too close for the fact that there is a major opening here."

**OSBORNE-HOWES** "So that is the part that you are most not comfortable with?"

**MEHTA** "No, I'm not comfortable with it."

**OSBORNE-HOWES** "The second access."

**MEHTA** "Yes."

**WARREN** "But if you have people backed up, trying to get into that signalized intersection and a lot of them are wanting to go left, but a lot of them in that line are wanting to go right, why wouldn't it be all right to come out here to that center, the one that is dropped down here now to the south and make that a right-turn only and you would get a lot of those people out of that intersection. It actually would eliminate some of the traffic in that intersection if they could get a right turn only right there."

**MEHTA** "You are 140 to 150 feet from the next opening south here. In vehicle terms, that is not a whole lot of separation."

**WARREN** "I am just saying though, if you have traffic signalization there, you are probably going to have a median out in the middle so they can't go left anyway. You would put a lot of the cars out of the street if you would go right turn only."

**MEHTA** "You could sure do that. There are also instances where you have a vehicle coming down south this way (indicating) with its blinkers on, but does not make a turn here, it actually intends to make a turn over here, causing all kinds of problems for these folks because it is so close. One hundred forty to one hundred sixty feet doesn't even meet half what could be a safe separation if you look at driver expectancy or a safe stopping site distance. I know there are a lot of examples in town of those kinds of close proximity of spacing, but we are talking about an opportunity where there is nothing here and what is the distance between the main driveway here and this drive? Technically it is not too different from the one being proposed except one of them is going to be a signalized location."

**GAROFALO** "Are there any other questions? Since there are no other speakers, we will take it back to the Commission. I just want to make the comment here that I think that we need to be really careful here because as staff says, we are going to end up with another Rock Road situation on Ridge Road. We are going to have like 5 million accesses coming in and out right on top of one another, and it is just horrendous out there. I think we need to be really careful about doing the same thing here. I think it is to the benefit of the property owners to have proper traffic circulation rather than have a million damn accesses. I think we should be really careful here. That was in plain English."

**OSBORNE-HOWES** "Go, Frank. There is no reason for traffic to back up at that signal if you have two lanes out. One, which is going to be turning left and one which is going to be turning right. So, I see no reason for that other second point of access, and I would not support it."

**PLATT** "It seems to me, in terms of looking at this piece of land, that the first thing I think we need to guarantee is somewhere in that mile, that east/west street. It looks to me like the half-mile is the logical place for it, and the contingent street dedication, I think, is the fundamental key to beginning problems, and we go from there. So I certainly would support the contingent half-street dedication."

**WARREN** "Let's go back to the map. Is there anything that a street going west would tie into now?"

**PLATT** "That is what the people 30 years from now will ask if we don't put it in there. 'Why didn't they put a street in there?'"

**WARREN** "I am not opposing you at all."

**GAROFALO** "There is nothing there now, is there?"

**MEHTA** (Indicating) "This here is a significant drainage limitation. That is the Big Slew."

**PLATT** "That is the one argument for doing it, I agree."

**MEHTA** "That is the argument for not taking a Collector Street all the way through. Our initial idea was that that would be okay. We could still have a collector system which links all of these parcels that are fronting Ridge Road from half-way behind, along the real line and link it back over here so that there is internal cross-circulation. If that is something that the majority of these development applications cannot relate to, then cross-lot access is acceptable, but then we still have to somehow funnel it to a point where, if in the future, you need a signal, where is it going to be, and we go back to the same location, which is right here. If it were a public street, the benefit there is that you can then really channelize all traffic to a public street and a signal. The signalized locations have loops and loop detectors in the pavement. It will be on public right-of-way instead of on a public driveway. There are advantages for it being a public street in that context."

**GAROFALO** "I think the applicant was agreeable to the contingency, right?"

**PLATT** "No."

**GAROFALO** "They weren't? I must have misunderstood."

**LOPEZ** "If you have ever been on Rock Road from 29<sup>th</sup> Street to K-96, there are people going north, immediately after 29<sup>th</sup> Street wanting to turn left, blocking traffic, getting off of K-96 and immediately wanting to turn left again to get into the strip center there, it is a nightmare. There are too many openings there because they are immediately after the major arterial there."

**MEHTA** "That is the same location where I think Public Works will probably have to install a signal, but with that, they will have to close some existing driveways to even make it work."

**MOTION:** Having considered the factors as contained in Policy Statement No. 10; taking into consideration the staff findings (The zoning, uses and character of the neighborhood): The character of this area is changing. Office/medical uses are being developed to the southeast, and limited commercial, office, neighborhood retail uses are approved for development to the south. There is an application for multi-family development to the south. The tract to the west is separated from this site by the Big Slough North and remains agricultural in use. The tract to north is large lot suburban, agricultural, and a neighborhood retail use, but could be anticipated to be developed more intensively northward to K-96, as could the land east of Ridge between 37<sup>th</sup> and K-96 which is still in agricultural use and approved for a commercial communication tower. The suitability of the subject property for the uses to which it has been restricted: The property could remain agricultural, but would more likely be developed with urban-type uses. The location along a major arterial near a freeway interchange and the presence of office/commercial activity nearby makes low density "SF-20" residential development seem out of character and below desirable density levels for orderly urban expansion. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of this C.U.P. will increase the likelihood that other properties to north, and east seek to be developed more intensively. Approval probably would not influence the property to the west as significantly due to its separation by a pond and the Big Slough North. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The 1993 Land Use Guide of the Comprehensive Plan identifies this area as agricultural, however, changing factors have pointed to the need to reconsider that designation, as discussed earlier. The Comprehensive Plan recently adopted by MAPC shows it as "commercial". Impact of the proposed development on community facilities: The site will have a significant impact on community facilities. However, through the required guarantees for street and other infrastructure improvements and provision of a circulation network, this impact should be adequately handled.) I move that we recommend to the governing body that the request be approved, subject to the following:

- A. APPROVE the zone change (ZON2000-00004) to "LC" Limited Commercial, subject to platting of the entire property within one year.
- B. APPROVE the Community Unit Plan (DP-253), subject to the following conditions:
  1. The following transportation improvements shall be provided:
    - A. A continuous right-turn decel and a left-turn storage lane shall be provided along Ridge Road.
    - B. The joint opening on Parcel 2 of DP-250 Starwest C.U.P. shall be shared with Parcel 3 of DP-253 Kaylor C.U.P.
    - C. A contingent street dedication of 40 feet in width shall be provided along the entire northern property line. A temporary three-lane drive may be located herein to serve development of the property and as cross-circulation access until which time the dedication is obtained from the adjoining property for the public street.
  2. No development shall occur until such time as municipal water and sewer services are provided to the site.
  3. General Provision Number 13 shall be deleted with the relocation of the drive along the northern property line.
  4. General Provision Number 18 shall delete the reference to "half-way houses".
  5. General Provision Number 26 shall be revised to state:

Cross-circulation access shall be provided in at least two locations, generally located on the rear of Parcels 2 and 3, and near the western edge of Parcel 1. These locations shall be reviewed by the MAPD to ensure smooth vehicular circulation: from 37<sup>th</sup> Street, through the commercial C.U.P. to the south and this commercial C.U.P., and continuing through all further development located north and west of the C.U.P.
  6. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
  7. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
  8. All property included within this C.U.P. and zone case shall be platted within one year after approval of this C.U.P. by the Governing Body, or the cases shall be considered denied and closed. The resolution establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds.

9. Prior to publishing the resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-253) includes special conditions for development on this property.

The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 30 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

**LOPEZ** moved, **WARNER** seconded the motion, and it carried unanimously (8-0).

**MEYER** "We would like clarification as to what was just approved, please. Staff is also confused over here."

**LOPEZ** "It was subject to staff comments with the changes of 2 to 3 and to DP-253. That is it."

**MEYER** "So with the contingent street dedication?"

**GAROFALO** "Okay."

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**GAROFALO** "Since Susan is going to have to leave now, it looks like we are going to have to defer the remainder of the agenda, Items 13a. and 13b., and 14 and 15. Susan, I hope your Dad does well.

**GAROFALO** "Is there anyone here to speak on any of those items? Okay, we will have a motion, then, to defer those items."

- 13a.** **Case No. Z-3361** - Storage Pro LLC, c/o Bruce Riddle (Owner/Applicant); Baughman Company PA c/o Russ Ewy (Agent) request zone change from "MF-18" Multi-Family Residential to "GC" General Commercial; and
- 13b.** **Case No. DP-59** - Amendment to create a new parcel and to change the zoning on the new parcel to "GC" General Commercial on property described as:

Lot 2, Woodland Heights 2<sup>nd</sup> Addition, Generally located north of Shade and East of Ridge.

**BACKGROUND:** The applicant is requesting an amendment to the Farmington Square CUP to create a new parcel, Parcel 10, from the western 7.04 acres of Parcel 1 of the existing CUP. The new Parcel 10 is proposed for a zone change from "MF-18" Multi-Family Residential to "GC" General Commercial to permit self-service storage warehouse uses on the west 260 feet of the parcel and the uses permitted on Parcel 1 for the entire new parcel. The applicant indicated that "GC" General Commercial zoning was requested for the entire new parcel to permit expansion of the self-service storage warehouse use in the future through another CUP amendment.

Self-service storage warehouse is permitted with a Conditional Use (or CUP amendment) in the "GO" General Office and "LC" Limited Commercial districts, but only if the site has direct access to an arterial street. The "GC" General Commercial district is the first district which permits self-service storage warehouse for sites such as the subject property that do not have direct access to an arterial street.

The applicant submitted a site plan (attached) for the proposed self-service storage warehouse development. The site plan shows a self-service storage warehouse facility consisting of 12 storage buildings and an office/residence building. The site plan also shows a "surface parking" area, which is presumably intended for long-term outdoor storage of vehicles and equipment. Access to the site is shown from Shade, an extra-wide local street that intersects with Ridge approximately 360 feet west of the entrance to the facility. The facility is shown to entirely enclosed (except for a 25 foot gap north of the office on the west property line) by a combination of the exterior walls for the storage buildings, a concrete fence filling the gaps between the building walls, and a wrought iron fence and gate along the south line of the enclosed area. The site plan shows a landscaped buffer along the frontage of Shade. The site plan does not indicate how any future expansion of the self-service storage warehouse facility would be sited on the new parcel.

The applicant also submitted building elevations (attached) for the proposed self-service storage warehouse development. The building elevations indicate that all building exteriors will share the same predominate earth-tone color, texture, and exterior building material. The exterior building materials are apparently brick, wood, and metal for the office/residence building and metal for the storage buildings. The building elevations do not include a rear elevation of the storage buildings or any information regarding common exterior building materials proposed to be used on the storage building walls and the masonry wall, which will serve in combination as the perimeter fencing for the development. The building elevations also do not indicate the proposed height of the buildings.

The surrounding area is predominately developed with multi-family residential uses with single family residential and commercial uses also in the area. The most directly impacted properties by the proposed development are several apartment complexes on property zoned "TF-3" Two-Family Residential located to the south and single family residences owned by the City of Wichita and operated as public housing on property zoned "SF-6" Single Family Residential located to the north. West of the subject property is vacant property that is currently zoned "MF-18" Multi-Family Residential with a zoning change to "LC" Limited Commercial that is pending the completion of the conditions of approval (primarily the vacation of access control). East of the subject property is vacant property zoned "MF-18" Multi-Family Residential. The adjoining property to the south, east, and west of the subject property is also within the Farmington Square CUP.



To limit the impact of the proposal on surrounding properties, planning staff recommends that the site be developed in accordance with the development standards in the Unified Zoning Code for self-service storage warehouses in the "GO" and "LC" districts. Planning staff also recommends that approval be subject to review and approval of a revised site plan and building elevations. To preserve options for review of future development at this site, planning staff recommends that the zone change to "GC" General Commercial be limited to the site of the proposed self-service storage warehouse (approximately the west 260 feet of the new parcel). The property is currently platted, and replatting is not recommended by planning staff.

**CASE HISTORY:** The subject property is platted as Lot 2, Woodland Heights 2<sup>nd</sup> Addition, which was recorded April 4, 1985.

**ADJACENT ZONING AND LAND USE:**

NORTH:	"SF-6"	Single Family
SOUTH:	"TF-3"	Multi-Family
EAST:	"MF-18"	Vacant
WEST:	"MF-18" ("LC" Pending)	Vacant

**PUBLIC SERVICES:** This site has access to Shade, an extra-wide two-lane local street. Traffic volumes are not available for Shade. Municipal services are available to this site.

**CONFORMANCE TO PLANS/POLICIES:** The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "High-Density Residential" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. The Unified Zone Code contains development standards for self-service storage warehouses located in the "GO" and "LC" districts to which the subject property is recommended to be held.

**RECOMMENDATION:** Based upon information available prior to the public hearing, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. The applicant shall submit a legal description for the property to be changed to the "GC" General Commercial zoning district that includes approximately the west 260 feet of Parcel 10.
2. Self-service storage warehouse uses on Parcel 10 shall be developed in accordance with Section III-D.6.y of the Unified Zoning Code, with the exception of Section III-D.6.y(1) and Section III-D.6.y.(2).
3. General Provision #18 shall be amended to add Parcel 10 to the list of parcels which are required to comply with the Landscape Ordinance. Additionally, a minimum 15 foot landscape buffer shall be provided along the south, east, and north perimeter of the self-service storage warehouse facility.
4. Prior to issuance of a building permit on Parcel 10, a revised site plan shall be submitted for review and approval by the Director of Planning. The revised site plan shall indicate type and location of perimeter enclosure materials, which shall entirely enclose the self-service storage warehouse facility. The site plan also shall indicate the size and location of the landscape buffer areas.
5. Prior to issuance of a building permit on Parcel 10, revised building elevations shall be submitted for review and approval by the Director of Planning. The revised building elevations shall indicate the wall and roof materials and colors and the building and wall heights. Additionally, the exterior walls of the storage buildings used to enclose the perimeter of the facility shall be of a stamped-brick pattern or similar architectural treatment and shall be of the same texture, color, and appearance as the masonry wall that encloses the gaps between the storage buildings.
6. The proposed uses for Parcel 10 shall be amended to permit a vehicle storage yard on the west 260 feet of the parcel.
7. Outdoor speakers and sound amplification systems shall not be permitted on Parcel 10.
8. General Provision #1 shall be amended to add Parcel 10 to the excepted parcels.
9. The development of this property shall proceed in accordance with the development plan as recommended for approval by the Planning Commission and approved by the Governing Body, and any substantial deviation of the plan, as determined by the Zoning Administrator and the Director of Planning, shall constitute a violation of the building permit authorizing construction of the proposed development.
10. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.

11. Prior to publishing the resolution or ordinance establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-59) includes special conditions for development on this property.
12. The applicant shall submit 4 revised copies of the C.U.P. to the Metropolitan Area Planning Department within 30 days after approval of this amendment by the Governing Body, or the request shall be considered denied and closed.

The staff's recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The surrounding area is predominately developed with multi-family residential uses with single family residential and commercial uses also in the area. The most directly impacted properties by the proposed development are several apartment complexes on property zoned "TF-3" Two-Family Residential located to the south and single family residences owned by the City of Wichita and operated as public housing on property zoned "SF-6" Single Family Residential located to the north. West of the subject property is vacant property that is currently zoned "MF-18" Multi-Family Residential with a zoning change to "LC" Limited Commercial that is pending the completion of the conditions of approval (primarily the vacation of access control). East of the subject property is vacant property zoned "MF-18" Multi-Family Residential. The adjoining property to the south, east, and west of the subject property is also within the Farmington Square CUP.
2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned "MF-18" Multi-Family Residential and could be developed for multi-family use; however, the site has remained undeveloped for over 15 years since it was zoned "MF18" Multi-Family Residential.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Any detrimental affects on properties from lighting, noise, and other factors should be mitigated by the requirements of the Unified Zoning Code and the Landscape Ordinance and the recommended conditions of approval for the CUP.
4. Conformance of the requested change to adopted or recognized Plans/Policies: The Land Use Guide of the Comprehensive Plan identifies the general location as appropriate for "High-Density Residential" development. The Commercial Locational Guidelines of the Comprehensive Plan recommend that commercial sites should be located adjacent to arterials and should have site design features which limit noise, lighting, and other activity from adversely impacting surrounding residential areas. While not adjacent to an arterial, the site will be subject to development standards which should mitigate the impacts of noise, lighting, and other activity. The Unified Zone Code contains development standards for self-service storage warehouses located in the "GO" and "LC" districts to which the subject property is recommended to be held.
5. Impact of the proposed development on community facilities: The use of this property should have limited impact on community facilities.

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14. **Case No. CU-568** - Jim Lattin and Donna Lattin (Owner); Terra Tech Land Surveying, Inc. c/o Michelle Goodrich (agent) request Conditional Use to allow warehouse, self-service storage on property described as:

That part of the Southeast Quarter of Section 26, Township 28 South, Range 1 East of the Sixth Principal Meridian, Sedgwick County, Kansas, lying east of K-15 Highway Right-of-Way, except the following described tracts:

Beginning at a point 545 feet South of the Northeast corner of the Southeast Quarter of Section 26, Township 28 South, Range 1 East of the Sixth Principal Meridian, Sedgwick County, Kansas; thence with an angle to the right of 90°, 327.06 feet more or less to the Easterly Right-of-Way of K-15 Highway; thence southeasterly along said Right-of-Way to a point 295 feet South of the Point of Beginning; thence East 263.7 feet more or less, to the East line of said Southeast Quarter; thence North 295 feet to the Place of Beginning.

AND

Beginning at a point 840 feet South of the Northeast corner of the Southeast Quarter of Section 26 Township 28 South, Range 1 East of the Sixth Principal Meridian, Sedgwick County, Kansas; thence South on Section line 981.37 feet; thence with a deflection angle to the left of 77°37'30" for a distance of 51.47 feet to the Easterly Right-of-Way of new state Highway K-15; thence Northwesterly along said Right-of-Way to a point perpendicular from point of beginning; thence East 263.7 feet to Place of Beginning.

AND

Beginning at the Northeast corner of the Southeast Quarter of Section 26, Township 28 South, Range 1 East of the Sixth Principal Meridian, Sedgwick County, Kansas; thence South 216 feet; thence West at right angles to the East line of said Southeast Quarter, 368.3 feet more or less to the Easterly line of K-15 Highway; thence Northwesterly along said K-15 Highway, 219.4 feet more or less to the North line of said Southeast Quarter; thence East 445 feet more or less to the Place of Beginning.

AND EXCEPT

The East 40 feet thereof taken for road.

AND

That part taken for Highway Right-of-Way in Condemnation Case #A-78971, Deed Book 1296 at Page 169 and Deed Book 1407 at Page 271.

**BACKGROUND:** The applicant is requesting that a 2.5-acre tract of property zoned "LC" Limited Commercial be approved for a "Conditional Use" for warehouse, self-service storage. The application area is located north of Derby, along the frontage road on the eastern side of K-15. The property also has frontage on Oliver. The owners live on the property in a single-family dwelling, that is zoned "LC" and is included within the boundary of the requested "Conditional Use".

Several properties in the vicinity of the proposed mini-warehouse area are used in a similar manner. The property directly across the street to the north is zoned "LI" Limited Industrial and has mini-storage. The property to the north of this site is zoned "OW" Office Warehouse and has outdoor storage. Another property approximately ¼ mile to the southwest, DP-223 Kuhn Co. Commercial C.U.P., also has warehouse, self-storage and outdoor storage of trailers, boats and RVs. Additional commercial activities in the vicinity include construction sales and service businesses, specializing in overhead doors and in dry stripping of wood.

In addition to the commercial uses, there are residences scattered in the triangular tract of land that is situated between K-15 and Oliver, extending from 55<sup>th</sup> Street South to 63<sup>rd</sup> Street South. The land to the east of Oliver is in agricultural use, but likely to develop soon with the recent relocation of the major arterial from Oliver to the new "Buckner". It has been approved for "B-5" Restricted Commercial Warehousing and Limited Manufacturing District by the City of Derby. The land west of K-15 from the application area is in agricultural use.

The property is within the Derby Zoning Area of Influence. The corporate boundaries of Derby have been extended to the land directly across Oliver from the application area.

Additionally, the application area is located in Airport Overlay District III South ("A-O III-S"). The intent of the Airport Overlay District is to ensure a compatible relationship between McConnell Air Force base operations and land uses in the vicinity of the base. This is done by reducing, to a minimum, the kind of land uses that could potentially concentrate large numbers of people underneath the runway takeoff and approach paths, where aircraft accidents are most likely to occur. Warehouse, self-service storage, is one of the uses permitted in this area because it generates a relatively low volume of customers at any given time.

The applicant will need to comply with the special restrictions in the Unified Zoning Code, including providing a minimum of five off-street parking spaces, to be increased on the basis of one space for each 8,000 square feet of floor area plus one space per employee. All drives, parking, loading and circulation areas are to be paved. The restrictions also cover the directing of lighting toward the use and away from other property, prohibiting outside storage unless the property has the correct zoning for this use, prohibiting garage sales and repairing of vehicles and equipment, limiting signage to one per arterial frontage not exceeding twenty feet in height nor 50 square feet in size and not projecting over the right-of-way, policing the area for trash and debris, and limiting maximum lot coverage to no more than 45 percent of the lot area. A resident manager is required on the site and is responsible for maintaining the operation in conformance with the conditions of approval.

The site plan shows two mini-storage unit buildings. A single row of 15 storage units is situated with a solid wall along K-15 to screen the door openings from direct view. The other building is double-loaded with 42 storage spaces to the east. The applicant proposes that the residence on the northeast of the property be used for the resident manager required by the "Conditional Use".

**CASE HISTORY:** The property is unplatted.

**ADJACENT ZONING AND LAND USE:**

NORTH: "LI" Limited Industrial	Warehouse, self-service, construction service business
EAST: "RR" Rural Residential	Agricultural
SOUTH: "LI" Limited Industrial	Construction sales and service
WEST: "RR" Rural Residential	Agricultural

**PUBLIC SERVICES:** The site has access to K-15 via the frontage road that extends to 55<sup>th</sup> Street North. Traffic counts are not available for the frontage road, but 1995 traffic volumes along K-15 at 55<sup>th</sup> Street South were 20,940 ADTs. Estimated traffic volume for 2020 for K-15 was 22,752 ADTs, but this is reflective of traffic on K-15, not on the frontage road. Rural water is available from Rural Water District #3. Public sewer is not available currently, although it might become available due to the significant amount of development projected to occur in the area to the east of the site that might result in sewer line extensions by the City of Derby. The applicant will have to obtain approval and permits for on-site facilities from the Health Department.

**CONFORMANCE TO PLANS/POLICIES:** The "Sedgwick County Development Guide" of the Comprehensive Plan identifies this property as "low density residential," and as being on the edge of the Derby Small City Growth Area. Derby's Comprehensive Plan Update 1995-2010 recommends this area as "Suburban" and also is on the edge of Derby's urbanizing area.

**RECOMMENDATION:** Based on the existence of similar activities in the vicinity of application area, the compatibility of this use with the "A-O III-S" land use restrictions, and the information available prior to the public hearing, Staff recommends the application be APPROVED, subject to platting within one year and subject to the following conditions:

7. The uses on this property shall be limited to warehouse, self-service storage and those uses permitted in both the "LC" Limited Commercial District AND the "A-O III-S" Airport Overlay District. The applicant shall comply with the conditions specified in Section III-D.6.y of the Unified Zoning Code.
8. The property shall be developed in general conformance with the site plan, attached hereto and made a part of this application.
9. A Landscape Plan for the property shall be developed that includes a landscape street yard along the western property line. This shall consist of a landscaped area of 5,000 square feet with 10 shade trees, 2-inch caliper at time of installation, or equivalent. Two ornamental trees, 1-inch caliper, or ten (10) shrubs, two-gallon and 18" high at time of installation, would be equivalent to one shade tree. Shrubs can be used to substitute for up to one-third of the total shade tree requirement.
10. A six-to-eight foot tall screening fence, constructed to prevent the passage of light and debris, shall be erected along the perimeter of the project at the required setback line wherever the buildings do not provide the necessary screening along K-15 and Oliver. Said fence shall be constructed of either brick, stone, architectural tile, masonry, wood or other similar material (not including woven wire).
11. Signage shall be limited to one per arterial street frontage. Signs shall not exceed twenty feet in height nor exceed fifty square feet in gross surface area. Signs shall not project over the public right-of-way. No portable signs, bright colored fences, string-type banners, pennants, or lights shall be permitted.
12. A resident manager shall be required to live on this tract. This manager shall be responsible for maintaining the operation of the facility in conformance with the conditions of approval. In the event the existing residence is no longer used for this purpose, a separate resident manager facility shall be provided on-site.
13. Any violation of the conditions of approval shall render the "Conditional Use" permit null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The zoning to the north and south is zoned "LI" Limited Industrial and is developed with similar mini-storage uses, outdoor storage, and construction sales and service businesses, interspersed with residences. The area west of K-15 is agricultural; the area to the southwest is another similar business to that proposed by the applicant. The area to the east is vacant (agricultural) but has been approved for B-5" Restricted Commercial Warehousing and Limited Manufacturing District. It is anticipated that it will be developed in the future, particularly with the recent relocation of Oliver eastward, improved to county two-lane arterial standards.
2. The suitability of the subject property for the uses to which it has been restricted: The property has been used as "LC" Limited Commercial without approval of the "Conditional Use".
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The "Conditional Use" would not be expected to generate detrimental effects on surrounding properties since it would be similar in character to existing uses in the vicinity.
4. Length of time the subject property has remained vacant as zoned: The property has been zoned "LC" Limited Commercial, but occupied on the northeast corner by a residence. The occupants of the residence own the entire tract and intend to operate the mini-storage business.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The requested change in zoning classification is not in conformance with the "Sedgwick County Development Guide," which identifies the area for "low density residential", despite the presence of existing business of similar character nearby. It is in conformance with use restrictions for Airport Overlay District III-3. Derby's Comprehensive Plan identifies the area as "Suburban", but the approval of "B-5" zoning across Oliver indicates a policy of non-residential use nearby.
5. Impact of the proposed development on community facilities: The projected impact on community facilities is minimal due to the low volume of potential water usage and sewage disposal requirements generated by the proposed use. Traffic volume increases also would be minimal.

**MOTION:** That Agenda Items 13a. and 13b; 14, 15 and 16 be deferred to the April 13, 2000 MAPC meeting.

**PLATT** moved, **LOPEZ** seconded the motion, and it carried unanimously (8-0).

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Susan Osborne-Howes left the meeting at 5:15 p.m.  
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The meeting formally adjourned at 5:15 due to lack of quorum.

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State of Kansas        )  
Sedgwick County     ) <sup>ss</sup>

I, Marvin S. Krout, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on \_\_\_\_\_, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2000.

\_\_\_\_\_  
Marvin S. Krout, Secretary  
Wichita-Sedgwick County Metropolitan  
Area Planning Commission

(SEAL)